

106TH CONGRESS  
1ST SESSION

# S. 1959

To provide for the fiscal responsibility of the Federal Government.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 1999

Mr. HARKIN introduced the following bill; which was read twice and referred  
to the Committee on Finance

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## A BILL

To provide for the fiscal responsibility of the Federal  
Government.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Fiscal Responsibility Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INCREASED ACCOUNTABILITY AND ELIMINATION OF  
WASTEFUL SPENDING

Subtitle A—Penalties for Failure to Reduce Teen Smoking

Sec. 101. Child cigarette use surveys.

Sec. 102. Cigarette use reduction goal and noncompliance.

Sec. 103. Enforcement.

Subtitle B—Tobacco Advertising

Sec. 111. Disallowance of deductions for advertising and promotional expenses relating to tobacco product use.

Subtitle C—Medicare Waste Elimination

- Sec. 121. Short title.
- Sec. 122. Increased medical reviews and antifraud activities.
- Sec. 123. Oversight of home health agencies.
- Sec. 124. No markup for drugs or biologicals.
- Sec. 125. Ensuring that the medicare program does not reimburse claims owed by other payers.
- Sec. 126. Extension of subpoena and injunction authority.
- Sec. 127. Civil monetary penalties for services ordered or prescribed by an excluded individual or entity.
- Sec. 128. Civil monetary penalties for false certification of eligibility to receive partial hospitalization and hospice services.
- Sec. 129. Application of certain provisions of the bankruptcy code.
- Sec. 130. Improving private sector coordination in combatting health care fraud.
- Sec. 131. Fees for agreements with medicare providers and suppliers.
- Sec. 132. Increased medicare compliance, education, and assistance for health care providers.
- Sec. 133. Paperwork and administrative hassle reduction.
- Sec. 134. Clarification of application of sanctions to Federal health care programs.
- Sec. 135. Payments for durable medical equipment.
- Sec. 136. Implementation of commercial claims auditing systems.
- Sec. 137. Partial hospitalization payment reforms.
- Sec. 138. Expansion of medicare senior waste patrol nationwide.
- Sec. 139. Application of inherent reasonableness to all part B services other than physicians' services.
- Sec. 140. Standards regarding payment for certain orthotics and prosthetics.
- Sec. 141. Increased flexibility in contracting for medicare claims processing.

Subtitle D—Reduction in Student Loan Fees

Sec. 151. Reduction in student loan fees.

Subtitle E—Limitations on Defense Funding for Fiscal Years 2000 Through 2004

- Sec. 161. Budget authority.
- Sec. 162. Protection of readiness and quality of life.
- Sec. 163. Expenditures not considered emergency expenditures.

Subtitle F—Internal Revenue Code Provisions

- Sec. 171. Recapture of unified credit for large estates.
- Sec. 172. Repeal of percentage depletion for certain nonfuel minerals mined on Federal lands.
- Sec. 173. Repeal of foreign earned income exclusion.
- Sec. 174. Depreciation adjustments for tobacco manufacturing equipment.
- Sec. 175. Foreign oil and gas income.

Sec. 176. Transfer pricing.

TITLE II—MISCELLANEOUS PROVISIONS TO REDUCE WASTEFUL  
SPENDING

Sec. 201. Prohibition on funding Television Marti and Radio Marti.

Sec. 202. Prohibition of use of Federal funds for lobbying.

Sec. 203. Prohibition of funding of the nuclear energy research initiative.

Sec. 204. Reduction in government agency spending on travel, printing, supplies and other items.

Sec. 205. Reducing student loan defaults.

**1 TITLE I—INCREASED ACCOUNT-**  
**2 ABILITY AND ELIMINATION**  
**3 OF WASTEFUL SPENDING**  
**4 Subtitle A—Penalties for Failure to**  
**5 Reduce Teen Smoking**

**6 SEC. 101. CHILD CIGARETTE USE SURVEYS.**

**7 (a) ANNUAL PERFORMANCE SURVEY.—**

**8 (1) IN GENERAL.**—Not later than August 31,  
**9 2000, and annually thereafter, the Secretary of**  
**10 Health and Human Services (referred to in this sec-**  
**11 tion as the “Secretary”) shall publish the results of**  
**12 an annual cigarette survey, to be carried out after**  
**13 the date of enactment of this Act and completed**  
**14 prior to August 21, 2000, and prior to August 21**  
**15 of each year thereafter, to determine—**

**16 (A) the percentage of all young individuals**  
**17 who used a type of cigarette within the 30-day**  
**18 period prior to the conduct of the survey in-**  
**19 volved; and**

1 (B) the percentage of young individuals  
 2 who identify each brand of each type of ciga-  
 3 rette as the usual brand smoked within such  
 4 30-day period.

5 (2) YOUNG INDIVIDUALS.—For the purposes of  
 6 this title, the term “young individuals” means indi-  
 7 viduals who are under 18 years of age.

8 (b) SIZE AND METHODOLOGY.—

9 (1) IN GENERAL.—The survey referred to in  
 10 subsection (a) shall be comparable in size and meth-  
 11 odology to the Monitoring the Future survey that  
 12 was completed in 1999 to measure the use of ciga-  
 13 rettes (by brand) by youths under 18 years of age  
 14 within the 30 day period prior to the conduct of the  
 15 study.

16 (2) CONCLUSIVE ACCURATENESS.—A survey  
 17 using the methodology described in paragraph (1)  
 18 shall be deemed conclusively proper, correct and ac-  
 19 curate for purposes of this section.

20 (3) DEFINITION.—In this subtitle, the term  
 21 “Monitoring the Future survey” means the com-  
 22 bined survey of 8th, 10th, and 12th grade students  
 23 that was conducted at the Institute for Social Re-  
 24 search at the University of Michigan.

1 (c) REDUCTION.—The Secretary, based on a com-  
 2 parison of the results of the first annual cigarette survey  
 3 referred to in subsection (a) and the Monitoring the Fu-  
 4 ture survey referred to in subsection (b)(1), shall deter-  
 5 mine the percentage reduction (if any) in youth cigarette  
 6 use for each manufacturer of cigarettes.

7 (d) PARTICIPATION IN SURVEY.—Notwithstanding  
 8 any other provision of law, the Secretary may conduct a  
 9 survey under this section involving minors if the results  
 10 of such survey with respect to such minors are kept con-  
 11 fidential and not disclosed.

12 (e) NONAPPLICABILITY.—Chapter 35 of title 44,  
 13 United States Code, shall not apply to information re-  
 14 quired for the purposes of carrying out this section.

15 (f) DEFINITION.—In this subtitle the term “ciga-  
 16 rette” has the meaning given such term in section 3(1)  
 17 of the Federal Cigarette Labeling and Advertising Act (15  
 18 U.S.C. 1332(1)).

19 **SEC. 102. CIGARETTE USE REDUCTION GOAL AND NON-**  
 20 **COMPLIANCE.**

21 (a) GOAL.—It shall be the cigarette use reduction  
 22 goal that each manufacturer reduce youth cigarette use  
 23 by at least 15 percent during the period between the Moni-  
 24 toring the Future survey referred to in section 101(b)(1)  
 25 and the completion of the first annual cigarette survey

1 (and such subsequent surveys as compared to the previous  
2 year's survey) referred to in section 101(a).

3 (b) NONCOMPLIANCE.—

4 (1) INDUSTRY-WIDE PENALTY.—If the Sec-  
5 retary determines that the cigarette use reduction  
6 goal under subsection (a) has not been achieved, the  
7 Secretary shall, not later than September 10, 2000,  
8 and September 10 of each year thereafter, impose  
9 an industry-wide penalty on the manufacturers of  
10 cigarettes in an amount that is in the aggregate  
11 equal to—

12 (A) if youth cigarette use has been reduced  
13 by 5 percent or less, \$8,000,000,000;

14 (B) if youth cigarette use has been reduced  
15 by at least 6 percent but less than 10 percent,  
16 \$6,000,000,000; and

17 (C) if youth cigarette use has been reduced  
18 by at least 11 percent but less than 15 percent,  
19 \$4,000,000,000.

20 (2) PAYMENT.—The industry-wide penalty im-  
21 posed under this subsection shall be paid by each  
22 manufacturer based on the percentage of cigarettes  
23 of each such manufacturer that are used by youth  
24 (as determined under the Monitoring the Future  
25 survey and compared to the cigarettes manufactured

1 by all manufacturers) as such percentage relates to  
2 the total amount to be paid by all manufacturers.

3 (3) FINAL DETERMINATION.—The determina-  
4 tion of the Secretary as to the amount and allocation  
5 of a surcharge under this subtitle shall be final and  
6 the manufacturer shall pay such surcharge within 10  
7 days of the date on which the manufacturer is as-  
8 sessed. Such payment shall be retained by the Sec-  
9 retary pending final judicial review of what, if any,  
10 change in the surcharge is appropriate.

11 (4) COMPLIANCE BY CERTAIN MANUFACTUR-  
12 ERS.—A manufacturer that individually complies  
13 with the goal under subsection (a) shall not be liable  
14 for the payment of any portion of the penalty under  
15 this subsection.

16 (5) LIMITATION.—With respect to cigarettes, a  
17 manufacturer with a market share of 1 percent or  
18 less of youth cigarette use shall not be liable for the  
19 payment of a surcharge under this section.

20 (c) PENALTIES NONDEDUCTIBLE.—The payment of  
21 penalties under this subtitle shall not be considered to be  
22 an ordinary and necessary expense in carrying on a trade  
23 or business for purposes of the Internal Revenue Code of  
24 1986 and shall not be deductible.

25 (d) JUDICIAL REVIEW.—

1           (1) AFTER PAYMENT.—A manufacturer of ciga-  
2       rettes may seek judicial review of any action under  
3       this subtitle only after the assessment involved has  
4       been paid by the manufacturer to the Department of  
5       the Treasury and only in the United States District  
6       Court for the District of Columbia.

7           (2) REVIEW BY ATTORNEY GENERAL.—Prior to  
8       the filing of an action by a manufacturer seeking ju-  
9       dicial review of an action under this subtitle, the  
10      manufacturer shall notify the Attorney General of  
11      such intent to file and the Attorney General shall  
12      have 30 days in which to respond to the action.

13          (3) REVIEW.—The amount of any surcharge  
14      paid under this subtitle shall be subject to judicial  
15      review by the United States Court of Appeals for the  
16      District of Columbia Circuit, based on the arbitrary  
17      and capricious standard of section 706 of title 5,  
18      United States Code. Notwithstanding any other pro-  
19      vision of law, no court shall have the authority to  
20      stay any surcharge payment due to the Secretary  
21      under this subtitle pending judicial review until the  
22      Secretary has made or failed to make a compliance  
23      determination, as described under this subtitle, that  
24      has adversely affected the person seeking the review.



1 **SEC. 103. ENFORCEMENT.**

2 (a) INITIAL PENALTY.—There is hereby imposed an  
3 initial penalty on the failure of any manufacturer to make  
4 any payment required under this subtitle within 10 days  
5 after the date on which such payment is due.

6 (b) AMOUNT OF PENALTY.—The amount of the pen-  
7 alty imposed by subsection (a) on any failure with respect  
8 to a manufacturer shall be an amount equal to 2 percent  
9 of the penalty owed under section 102 for each day during  
10 the noncompliance period.

11 (c) NONCOMPLIANCE PERIOD.—For purposes of this  
12 section, the term “noncompliance period” means, with re-  
13 spect to any failure to make the surcharge payment re-  
14 quired under this subtitle, the period—

15 (1) beginning on the due date for such pay-  
16 ment; and

17 (2) ending on the date on which such payment  
18 is paid in full.

19 (d) LIMITATIONS.—No penalty shall be imposed by  
20 subsection (a) on—

21 (1) any failure to make a surcharge payment  
22 under this subtitle during any period for which it is  
23 established to the satisfaction of the Secretary that  
24 none of the persons responsible for such failure  
25 knew or, exercising reasonable diligence, would have  
26 known, that such failure existed; or

1           (2) any manufacturer that produces less than 1  
 2           percent of cigarettes used by youth in that year (as  
 3           determined by the annual survey).

## 4       **Subtitle B—Tobacco Advertising**

### 5       **SEC. 111. DISALLOWANCE OF DEDUCTIONS FOR ADVER-** 6                               **TISING AND PROMOTIONAL EXPENSES RE-** 7                               **LATING TO TOBACCO PRODUCT USE.**

8           (a) IN GENERAL.—Part IX of subchapter B of chap-  
 9       ter 1 of subtitle A of the Internal Revenue Code of 1986  
 10      (relating to items not deductible) is amended by adding  
 11      at the end the following new section:

### 12    **“SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO** 13                               **ADVERTISING AND PROMOTIONAL EX-** 14                               **PENSES.**

15           No deduction shall be allowed under this chapter for  
 16      expenses relating to advertising or promoting cigars, ciga-  
 17      rettes, smokeless tobacco, pipe tobacco, or any similar to-  
 18      bacco product. For purposes of this section, any term used  
 19      in this section which is also used in section 5702 shall  
 20      have the same meaning given such term by section 5702.”

21           (b) CONFORMING AMENDMENT.—The table of sec-  
 22      tions for such part IX is amended by adding after the  
 23      item relating to section 280H the following new item:

“Sec. 280I. Disallowance of deduction for tobacco advertising  
 and promotion expenses.”

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years ending after De-  
 3 cember 31, 1999.

## 4 **Subtitle C—Medicare Waste** 5 **Elimination**

### 6 **SEC. 121. SHORT TITLE.**

7 This subtitle may be cited as the “Medicare Waste  
 8 Tax Reduction Act of 1999”.

### 9 **SEC. 122. INCREASED MEDICAL REVIEWS AND ANTIFRAUD** 10 **ACTIVITIES.**

11 Section 1893(d) of the Social Security Act (42 U.S.C.  
 12 1395ddd(d)) is amended by inserting after paragraph (3)  
 13 the following:

14 “(4) In the case of the year 2000 and each sub-  
 15 sequent year, procedures to ensure that—

16 “(A) the number of medical reviews, utili-  
 17 zation reviews, and fraud reviews in a fiscal  
 18 year of providers of services and other individ-  
 19 uals and entities furnishing items and services  
 20 for which payment may be made under this title  
 21 (as a percentage of total claims paid) is equal  
 22 to at least twice the number of such reviews  
 23 that were conducted in fiscal year 1999;

24 “(B) the number of provider cost reports  
 25 audited in a fiscal year is equal to at least—

1 “(i) 15 percent of those submitted by  
 2 a home health agency or a skilled nursing  
 3 facility; and

4 “(ii) twice the number of such reports  
 5 that were audited in fiscal year 1999 for  
 6 those submitted by any other provider of  
 7 services or any other individual or entity  
 8 furnishing items and services for which  
 9 payment may be made under this title; and

10 “(C) in determining which providers of  
 11 services, individuals, entities, or cost reports to  
 12 review or audit, priority is placed on providers,  
 13 individuals, entities, and areas that the Sec-  
 14 retary determines are subject to abuse and  
 15 most likely to result in mispayment or overpay-  
 16 ment recoveries.”.

17 **SEC. 123. OVERSIGHT OF HOME HEALTH AGENCIES.**

18 Section 1891(c) of the Social Security Act (42 U.S.C.  
 19 1395bbb(c)) is amended by adding at the end the fol-  
 20 lowing:

21 “(3)(A)(i) The Secretary shall conduct onsite surveys  
 22 of a representative sample of home health agencies in each  
 23 State, in a sufficient number to allow inferences about the  
 24 adequacies of each State’s surveys conducted under this  
 25 subsection.

1       “(ii) A survey described in clause (i) shall be con-  
2       ducted by the Secretary within 2 months of the date of  
3       the survey conducted by the State and may be conducted  
4       concurrently with the State survey.

5       “(iii) In conducting a survey described in clause (i),  
6       the Secretary shall use the same survey protocols as the  
7       State is required to use under this subsection.

8       “(iv) If, through a State survey, the State has deter-  
9       mined that a home health agency is in compliance with  
10      the requirements specified in or pursuant to section  
11      1861(o), this section, or this title, but the Secretary deter-  
12      mines (after conducting the survey described in clause (i))  
13      that the facility does not meet such requirements, the Sec-  
14      retary’s determination as to the facility’s noncompliance  
15      with such requirements is binding and supersedes that of  
16      the State survey.

17      “(B) With respect to each State, the Secretary shall  
18      conduct surveys under subparagraph (A) each year with  
19      respect to at least 5 percent of the number of home health  
20      agencies surveyed by the State in the year, but in no case  
21      less than 5 home health agencies in the State.

22      “(C) If the Secretary finds, on the basis of such sur-  
23      veys, that a State has failed to perform surveys as re-  
24      quired under this subsection or that a State’s survey and  
25      certification performance otherwise is not adequate, the

1 Secretary shall provide for an appropriate remedy, which  
2 may include the training of survey teams in the State.

3 “(D) If the Secretary has reason to question the com-  
4 pliance of a home health agency with any of the require-  
5 ments specified in or pursuant to section 1861(o), this sec-  
6 tion, or this title, the Secretary may conduct a survey of  
7 the agency and, on the basis of that survey, make inde-  
8 pendent and binding determinations concerning the extent  
9 to which the home health agency meets such require-  
10 ments.”.

11 **SEC. 124. NO MARKUP FOR DRUGS OR BIOLOGICALS.**

12 (a) IN GENERAL.—Section 1842(o) of the Social Se-  
13 curity Act (42 U.S.C. 1395u(o)) is amended to read as  
14 follows:

15 “(o)(1) If a physician’s, supplier’s, or any other per-  
16 son’s bill or request for payment for services includes a  
17 charge for a drug or biological for which payment may  
18 be made under this part and the drug or biological is not  
19 paid on a cost or prospective payment basis as otherwise  
20 provided in this part, the payment amount established in  
21 this subsection for the drug or biological shall be the low-  
22 est of the following:

23 “(A) The actual acquisition cost, as defined in  
24 paragraph (2), to the person submitting the claim  
25 for payment for the drug or biological.

1           “(B) 83 percent of the average wholesale price  
2           of such drug or biological, as determined by the Sec-  
3           retary.

4           “(C) For payments for any drug or biological  
5           furnished on or after January 1, 2001, the median  
6           actual acquisition cost of all claims for payment for  
7           such drug or biological for the 12-month period be-  
8           ginning July 1, 1999 (and adjusted, as the Sec-  
9           retary determines appropriate, to reflect changes in  
10          the cost of such drug or biological due to inflation,  
11          and such other factors as the Secretary determines  
12          appropriate).

13          “(D) The amount otherwise determined under  
14          this part.

15          “(2) For purposes of paragraph (1)(A), the term ‘ac-  
16          tual acquisition cost’ means, with respect to such drug or  
17          biological, the cost of the drug or biological based on the  
18          most economical case size in inventory on the date of dis-  
19          pensing or, if less, the most economical case size pur-  
20          chased within 6 months of the date of dispensing whether  
21          or not that specific drug or biological was furnished to  
22          an individual whether or not enrolled under this part.  
23          Such term includes appropriate adjustments, as deter-  
24          mined by the Secretary, for all discounts, rebates, or any  
25          other benefit in cash or in kind (including travel, equip-

1 ment, or free products). The Secretary shall include an  
2 additional payment for administrative, storage, and han-  
3 dling costs.

4 “(3)(A) No payment shall be made under this part  
5 for any drug or biological to a person whose bill or request  
6 for payment for such drug or biological does not include  
7 a statement of the person’s actual acquisition cost.

8 “(B) A person may not bill an individual enrolled  
9 under this part—

10 “(i) any amount other than the payment  
11 amount specified in paragraph (1) or (4) (plus any  
12 applicable deductible and coinsurance amounts), or

13 “(ii) any amount for such drug or biological for  
14 which payment may not be made pursuant to sub-  
15 paragraph (A).

16 “(C) If a person knowingly and willfully in repeated  
17 cases bills 1 or more individuals in violation of subpara-  
18 graph (B), the Secretary may apply sanctions against that  
19 person in accordance with subsection (j)(2).

20 “(4) The Secretary may pay a reasonable dispensing  
21 fee (less the applicable deductible and coinsurance  
22 amounts) for any drug or biological to a licensed phar-  
23 macy approved to dispense drugs or biologicals under this  
24 part, if payment for such drug or biological is made to  
25 the pharmacy.”.



1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall apply to drugs or biologicals furnished  
 3 on or after January 1, 2000.

4 (c) ELIMINATION OF REPORT ON AVERAGE WHOLE-  
 5 SALE PRICE.—Section 4556 of the Balanced Budget Act  
 6 of 1997 is amended by striking subsection (c).

7 **SEC. 125. ENSURING THAT THE MEDICARE PROGRAM DOES**  
 8 **NOT REIMBURSE CLAIMS OWED BY OTHER**  
 9 **PAYERS.**

10 (a) INFORMATION FROM GROUP HEALTH PLANS.—  
 11 Section 1862(b) of the Social Security Act (42 U.S.C.  
 12 1395y(b)) is amended by adding at the end the following:

13 “(7) INFORMATION FROM GROUP HEALTH  
 14 PLANS.—

15 “(A) PROVISION OF INFORMATION BY  
 16 GROUP HEALTH PLANS.—The administrator of  
 17 a group health plan that is subject to the re-  
 18 quirements of paragraph (1) shall provide the  
 19 Secretary with the information described in  
 20 subparagraph (C) for each individual covered  
 21 under the plan who is entitled to any benefits  
 22 under this title. Such information shall be pro-  
 23 vided in such manner and at such times as the  
 24 Secretary may specify (but in no case more fre-  
 25 quently than 4 times per year).

1           “(B) PROVISION OF INFORMATION BY EM-  
 2           PLOYERS AND EMPLOYEE ORGANIZATIONS.—An  
 3           employer (or employee organization) that main-  
 4           tains or participates in a group health plan that  
 5           is subject to the requirements of paragraph (1)  
 6           shall provide to the administrator of the plan  
 7           the information described in subparagraph (C)  
 8           for each individual covered under the plan who  
 9           is entitled to any benefits under this title. Such  
 10          information shall be provided in such manner  
 11          and at such times as the Secretary may specify  
 12          (but in no case more frequently than 4 times  
 13          per year).

14          “(C) INFORMATION.—The information de-  
 15          scribed in this subparagraph is as follows:

16               “(i) ELEMENTS CONCERNING THE IN-  
 17               DIVIDUAL.—

18                       “(I) The individual’s name.

19                       “(II) The individual’s date of  
 20                       birth.

21                       “(III) The individual’s sex.

22                       “(IV) The individual’s social se-  
 23                       curity insurance number.

1 “(V) The number assigned by the  
2 Secretary to the individual for claims  
3 under this title.

4 “(VI) The family relationship of  
5 the individual to the person who has  
6 current or prior employment status  
7 with the employer.

8 “(ii) ELEMENTS CONCERNING THE  
9 FAMILY MEMBER WITH CURRENT OR PRIOR  
10 EMPLOYMENT STATUS.—

11 “(I) The name of the person in  
12 the individual’s family who has cur-  
13 rent or prior employment status with  
14 the employer.

15 “(II) That person’s social secu-  
16 rity insurance number.

17 “(III) The number or other iden-  
18 tifier assigned by the plan to that per-  
19 son.

20 “(IV) The periods of coverage for  
21 that person under the plan.

22 “(V) The employment status of  
23 that person (current or former em-  
24 ployee) during those periods of cov-  
25 erage.

1                   “(VI) The classes (of that per-  
 2                   son’s family members) covered under  
 3                   the plan.

4                   “(iii) PLAN ELEMENTS.—

5                   “(I) The items and services cov-  
 6                   ered under the plan.

7                   “(II) The name and address to  
 8                   which claims under the plan are to be  
 9                   sent.

10                  “(III) The name, address, and  
 11                  tax identification number of the plan  
 12                  sponsor.

13                  “(iv) ELEMENTS CONCERNING THE  
 14                  EMPLOYER.—

15                  “(I) The employer’s name.

16                  “(II) The employer’s address.

17                  “(III) The employer identifica-  
 18                  tion number of the employer.

19                  “(IV) The tax identification num-  
 20                  ber of the employer if different than  
 21                  the number in clause (iii)(III).

22                  “(D) USE OF IDENTIFIERS.—The adminis-  
 23                  trator of a group health plan shall utilize a  
 24                  unique identifier for the plan in providing infor-  
 25                  mation under subparagraph (A) and in other

1 transactions, as may be specified by the Sec-  
 2 retary, related to the provisions of this sub-  
 3 section. The Secretary may provide to the ad-  
 4 ministrator the unique identifier described in  
 5 the preceding sentence.

6 “(E) PENALTY FOR NONCOMPLIANCE.—  
 7 Any individual or entity that knowingly and  
 8 willfully fails to comply with a requirement im-  
 9 posed by this paragraph shall be subject to a  
 10 civil money penalty not to exceed \$1,000 for  
 11 each incident of such failure. The provisions of  
 12 section 1128A (other than subsections (a) and  
 13 (b)) shall apply to a civil money penalty under  
 14 the previous sentence in the same manner as  
 15 those provisions apply to a penalty or pro-  
 16 ceeding under section 1128A(a).

17 “(F) GROUP HEALTH PLAN DEFINED.—In  
 18 this paragraph, the term ‘group health plan’  
 19 has the meaning given such term in paragraph  
 20 (1)(A)(v).”.

21 (b) EFFECTIVE DATE.—The amendment made by  
 22 subsection (a) shall take effect on January 1, 2000.

1 **SEC. 126. EXTENSION OF SUBPOENA AND INJUNCTION AU-**  
 2 **THORITY.**

3 (a) SUBPOENA AUTHORITY.—Section 1128A(j)(1) of  
 4 the Social Security Act (42 U.S.C. 1320a–7a(j)(1)) is  
 5 amended by inserting “and section 1128” after “with re-  
 6 spect to this section”.

7 (b) INJUNCTION AUTHORITY.—Section 1128A(k) of  
 8 the Social Security Act (42 U.S.C. 1320a–7a(k)) is  
 9 amended by inserting “or an exclusion under section  
 10 1128,” after “subject to a civil monetary penalty under  
 11 this section,”.

12 (c) CLARIFYING AMENDMENTS.—

13 (1) IN GENERAL.—Section 1128A(j)(1) of the  
 14 Social Security Act (42 U.S.C. 1320a–7a(j)(1)) is  
 15 amended—

16 (A) by inserting “, except that, in so ap-  
 17 plying such sections, any reference therein to  
 18 the Commissioner of Social Security or the So-  
 19 cial Security Administration shall be considered  
 20 a reference to the Secretary or the Department  
 21 of Health and Human Services, respectively”  
 22 after “with respect to title II”; and

23 (B) by striking the second sentence.

24 (2) AUTHORITY.—Section 1128A(j)(2) of the  
 25 Social Security Act (42 U.S.C. 1320a–7a(j)(2)) is  
 26 amended to read as follows:

1       “(2) The Secretary may delegate to the Inspector  
2 General of the Department of Health and Human Services  
3 any or all authority granted under this section or under  
4 section 1128.”.

5       (d) CONFORMING AMENDMENT.—Section 1128 of the  
6 Social Security Act (42 U.S.C. 1320a–7) is amended by  
7 adding at the end the following:

8       “(k) For provisions of law concerning the Secretary’s  
9 subpoena and injunction authority with respect to activi-  
10 ties under this section, see subsections (j) and (k) of sec-  
11 tion 1128A.”.

12 **SEC. 127. CIVIL MONETARY PENALTIES FOR SERVICES OR-**  
13 **DERED OR PRESCRIBED BY AN EXCLUDED IN-**  
14 **DIVIDUAL OR ENTITY.**

15       (a) IN GENERAL.—Section 1128A(a)(1) of the Social  
16 Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—  
17       (1) in subparagraph (D)—

18               (A) by inserting “, ordered, or prescribed  
19 by such person” after “other item or service  
20 furnished”;

21               (B) by inserting “(pursuant to this title or  
22 title XVIII)” after “period in which the person  
23 was excluded”;

24               (C) by striking “pursuant to a determina-  
25 tion by the Secretary” and all that follows

1 through “the provisions of section 1842(j)(2)”;  
 2 and

3 (D) by striking “or” at the end;

4 (2) by redesignating subparagraph (E) as sub-  
 5 paragraph (F); and

6 (3) by adding after subparagraph (D) the fol-  
 7 lowing:

8 “(E) is for a medical or other item or serv-  
 9 ice ordered or prescribed by a person excluded  
 10 (pursuant to this title or title XVIII) from the  
 11 program under which the claim was made, and  
 12 the person furnishing such item or service  
 13 knows or should know of such exclusion, or”.

14 (b) EFFECTIVE DATE.—The amendments made by  
 15 subsection (a) shall apply to claims presented on or after  
 16 the date of enactment of this Act.

17 **SEC. 128. CIVIL MONETARY PENALTIES FOR FALSE CER-**  
 18 **TIFICATION OF ELIGIBILITY TO RECEIVE**  
 19 **PARTIAL HOSPITALIZATION AND HOSPICE**  
 20 **SERVICES.**

21 (a) IN GENERAL.—Section 1128A(b)(3) of the Social  
 22 Security Act (42 U.S.C. 1320a–7a(b)(3)) is amended—

23 (1) in subparagraph (A)(ii), by inserting “, hos-  
 24 pice care, or partial hospitalization services” after  
 25 “home health services”; and



1 (2) in subparagraph (B), by inserting “, section  
 2 1814(a)(7) in the case of hospice care, or section  
 3 1835(a)(2)(F) in the case of partial hospitalization  
 4 services” after “home health services”.

5 (b) EFFECTIVE DATE.—The amendments made by  
 6 subsection (a) shall apply to documents executed on or  
 7 after the date of enactment of this Act.

8 **SEC. 129. APPLICATION OF CERTAIN PROVISIONS OF THE**  
 9 **BANKRUPTCY CODE.**

10 (a) RESTRICTED APPLICABILITY OF BANKRUPTCY  
 11 STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PRO-  
 12 VISIONS TO MEDICARE AND MEDICAID DEBTS.—Title XI  
 13 of the Social Security Act (42 U.S.C. 1301 et seq.) is  
 14 amended by inserting after section 1143 the following:

15 “APPLICATION OF CERTAIN PROVISIONS OF THE  
 16 BANKRUPTCY CODE

17 “SEC. 1144. (a) MEDICARE- AND MEDICAID-RE-  
 18 LATED ACTIONS NOT STAYED BY BANKRUPTCY PRO-  
 19 CEEDINGS.—The commencement or continuation of any  
 20 action against a debtor under this title, title XVIII, or title  
 21 XIX (other than an action with respect to health care  
 22 services provided to the debtor under title XVIII), includ-  
 23 ing any action or proceeding to exclude or suspend the  
 24 debtor from program participation, assess civil money pen-  
 25 alties, recoup or set off overpayments, or deny or suspend

1 payment of claims shall not be subject to the provisions  
2 of section 362(a) of title 11, United States Code.

3 “(b) MEDICARE- AND MEDICAID-RELATED DEBT  
4 NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to  
5 the United States or to a State for an overpayment under  
6 title XVIII or title XIX (other than an overpayment for  
7 health care services provided to the debtor under title  
8 XVIII), or for a penalty, fine, or assessment under this  
9 title, title XVIII, or title XIX, shall not be dischargeable  
10 under any provision of title 11, United States Code.

11 “(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED  
12 FINAL.—Payments made to repay a debt to the United  
13 States or to a State with respect to items or services pro-  
14 vided, or claims for payment made, under title XVIII or  
15 XIX (including repayment of an overpayment (other than  
16 an overpayment for health care services provided to the  
17 debtor under title XVIII)), or to pay a penalty, fine, or  
18 assessment under this title, title XVIII, or title XIX, shall  
19 be considered final and not preferential transfers under  
20 section 547 of title 11, United States Code.”.

21 (b) MEDICARE RULES APPLICABLE TO BANKRUPTCY  
22 PROCEEDINGS.—Title XVIII of the Social Security Act  
23 (42 U.S.C. 1395 et seq.) is amended by adding at the end  
24 the following:

“(b) NOTICE TO CREDITOR OF BANKRUPTCY PETITIONER.—In the case of a debt owed to the United States with respect to items or services provided, or claims for payment made, under this title (including a debt arising from an overpayment or a penalty, fine, or assessment under title XI or this title), the notices to the creditor of bankruptcy petitions, proceedings, and relief required under title 11, United States Code (including under section 342 of that title and section 2002(j) of the Federal Rules of Bankruptcy Procedure), shall be given to the Secretary. Provision of such notice to a fiscal agent of the Secretary shall not be considered to satisfy this requirement.

23 “(c) **TURNOVER OF PROPERTY TO THE BANKRUPTCY**  
24 **ESTATE.**—For purposes of section 542(b) of title 11,  
25 United States Code, a claim for payment under this title

1 shall not be considered to be a matured debt payable to  
 2 the estate of a debtor until such claim has been allowed  
 3 by the Secretary in accordance with procedures under this  
 4 title.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to petitions filed on or after the  
 7 date of enactment of this Act.

8 **SEC. 130. IMPROVING PRIVATE SECTOR COORDINATION IN**  
 9 **COMBATTING HEALTH CARE FRAUD.**

10 (a) IN GENERAL.—Title XI of the Social Security Act  
 11 (42 U.S.C. 1301 et seq.) is amended by inserting after  
 12 section 1157 the following:

13 “IMPROVING PRIVATE SECTOR COORDINATION IN  
 14 COMBATTING HEALTH CARE FRAUD

15 “SEC. 1157A. (a) IN GENERAL.—Notwithstanding  
 16 any other provision of law, no health plan (as defined in  
 17 section 1128C(c)), issuer of a health plan, or employee of  
 18 a health plan shall be held liable in any civil action with  
 19 respect to the provision of information regarding sus-  
 20 pected health care fraud, including Federal health care of-  
 21 fenses (as defined in section 24(a) of title 18, United  
 22 States Code) to an applicable individual unless such infor-  
 23 mation is false and the person providing it knew, or had  
 24 reason to believe, that such information was false.

25 “(b) APPLICABLE INDIVIDUAL.—In subsection (a),  
 26 the term ‘applicable individual’ means—

1           “(1) a Federal, State, or local law enforcement  
2           official responsible for the investigation or prosecu-  
3           tion of suspected health care fraud offenses; or

4           “(2) an employee of a health plan or issuer of  
5           a health plan.

6           “(c) ATTORNEY’S FEES.—Any health plan, issuer of  
7           a health plan, or employee of a health plan against whom  
8           a civil action is brought, and who is found to be entitled  
9           to immunity from liability by reason of this section, shall  
10          be entitled to recover reasonable attorney’s fees and costs  
11          from the person who brought the civil action.”.

12          (b) EFFECTIVE DATE.—The amendment made by  
13          subsection (a) shall take effect on the date of enactment  
14          of this Act.

15       **SEC. 131. FEES FOR AGREEMENTS WITH MEDICARE PRO-**  
16                               **VIDERS AND SUPPLIERS.**

17          (a) FEES RELATED TO MEDICARE PROVIDER AND  
18          SUPPLIER ENROLLMENT AND REENROLLMENT.—Section  
19          1866 of the Social Security Act (42 U.S.C. 1395cc) is  
20          amended by adding at the end the following:

21               “(j) ENROLLMENT PROCEDURES AND FEES.—

22               “(1) ENROLLMENT OF INDIVIDUALS AND ENTI-  
23               TIES THAT ARE NOT PROVIDERS OF SERVICES.—The  
24               Secretary may establish a procedure for enrollment  
25               (and periodic reenrollment) of individuals or entities

1 that are not providers of services subject to the pro-  
2 visions of subsection (a) but that furnish health care  
3 items or services under this title.

4 “(2) FEES.—

5 “(A) IN GENERAL.—The Secretary may  
6 impose fees for initiation and renewal of pro-  
7 vider agreements under subsection (a) and for  
8 enrollment and periodic reenrollment of other  
9 individuals and entities furnishing health care  
10 items or services under this title under para-  
11 graph (1), in amounts up to the full amount  
12 which the Secretary reasonably estimates to be  
13 sufficient to cover the Secretary’s costs related  
14 to the process for initiating and reviewing such  
15 agreements and enrollments.

16 “(B) FEES CREDITED TO SPECIAL FUND  
17 IN TREASURY.—Fees collected pursuant to this  
18 paragraph shall be credited to a special fund of  
19 the United States Treasury, and shall remain  
20 available until expended, to the extent and in  
21 such amounts as provided in advance in appro-  
22 priations Acts, for necessary expenses for these  
23 purposes, including costs of establishing and  
24 maintaining procedures and records systems,

1 processing applications, and conducting back-  
 2 ground investigations.”.

3 (b) CLERICAL AMENDMENT.—The heading of section  
 4 1866 of the Social Security Act (42 U.S.C. 1395cc) is  
 5 amended to read as follows:

6 “AGREEMENTS WITH PROVIDERS OF SERVICES AND EN-  
 7 ROLLMENT OF OTHER PERSONS FURNISHING SERV-  
 8 ICES”.

9 **SEC. 132. INCREASED MEDICARE COMPLIANCE, EDU-**  
 10 **CATION, AND ASSISTANCE FOR HEALTH CARE**  
 11 **PROVIDERS.**

12 (a) DEVELOPMENT OF PLAN.—Not later than 6  
 13 months after the date of enactment of this Act, the Sec-  
 14 retary of Health and Human Services shall, in consulta-  
 15 tion with health care provider representatives, develop and  
 16 implement a comprehensive plan of activities to—

17 (1) maximize health care provider knowledge of  
 18 medicare program integrity requirements, including  
 19 anti-fraud and abuse laws and administrative ac-  
 20 tions;

21 (2) assist health care providers with medicare  
 22 program integrity compliance, including educating  
 23 such providers regarding compliance activities and  
 24 procedures of the Health Care Financing Adminis-  
 25 tration and the Inspector General of the Department  
 26 of Health and Human Services;

1           (3) develop improved computer technology for  
 2           health care providers to both reduce their adminis-  
 3           trative hassles and facilitate their compliance with  
 4           medicare program requirements, including physician  
 5           evaluation and management guidelines; and

6           (4) otherwise improve compliance among health  
 7           care providers with rules and regulations under the  
 8           medicare program.

9           (b) FUNDING.—Notwithstanding any other provision  
 10          of law, of the amounts appropriated under section  
 11          1817(k)(4) of the Social Security Act (42 U.S.C.  
 12          1395i(k)(4)) for a fiscal year, there shall be made avail-  
 13          able \$10,000,000 in fiscal year 2000 and such sums as  
 14          are necessary in fiscal years 2001 through 2004 to carry  
 15          out the purposes of this section.

16       **SEC. 133. PAPERWORK AND ADMINISTRATIVE HASSLE RE-**  
 17                               **DUCTION.**

18           (a) STUDY BY COMMITTEE.—

19           (1) ESTABLISHMENT.—Not later than 90 days  
 20           after the date of enactment of this Act, the Sec-  
 21           retary of Health and Human Services shall contract  
 22           with the Institute of Medicine of the National Acad-  
 23           emy of Sciences to establish a committee to study  
 24           medicare program administrative requirements that



1       are applicable to health care providers under such  
2       program.

3           (2) COMMITTEE.—The committee described in  
4       paragraph (1) shall be composed of—

5           (A) at least 9 health care providers who  
6       participate in, and have significant experience  
7       working with, the medicare program;

8           (B) experts in paperwork reduction; and

9           (C) beneficiaries under the medicare pro-  
10      gram or their representatives.

11       (b) RECOMMENDATIONS.—The committee described  
12      in subsection (a) shall develop recommendations regarding  
13      how paperwork and administrative requirements under the  
14      medicare program can be minimized in a manner that—

15           (1) increases the time health care providers  
16      that are subject to such requirements have to spend  
17      in direct patient care; and

18           (2) maintains medicare program integrity and  
19      compliance with anti-fraud and abuse requirements.

20      In developing such recommendations, the committee shall  
21      seek to streamline variations in administrative and paper-  
22      work requirements between the medicare program and  
23      other government health programs and private health  
24      plans.

25       (c) REPORT.—

1           (1) IN GENERAL.—Not later than June 1,  
2       2000, the committee described in subsection (a)  
3       shall submit a report to the Secretary of Health and  
4       Human Services, the Committees on Finance and  
5       Appropriations of the Senate and the Committees on  
6       Ways and Means, Commerce, and Appropriations of  
7       the House of Representatives.

8           (2) CONTENTS.—The report required under  
9       paragraph (1) shall contain a detailed description of  
10      the matters studied pursuant to subsection (a) and  
11      the recommendations developed pursuant to sub-  
12      section (b), including such legislation and adminis-  
13      trative actions as the committee considers appro-  
14      priate.

15      (d) AUTHORIZATION OF APPROPRIATIONS.—

16           (1) IN GENERAL.—There are authorized to be  
17      appropriated \$1,000,000 for fiscal year 2000 to  
18      carry out the purposes of this section.

19           (2) AVAILABILITY.—Any sums appropriated  
20      under the authorization contained in this subsection  
21      shall remain available, without fiscal year limitation,  
22      until expended.

1 **SEC. 134. CLARIFICATION OF APPLICATION OF SANCTIONS**  
 2 **TO FEDERAL HEALTH CARE PROGRAMS.**

3 (a) COVERAGE OF EMPLOYMENT.—Section 1128 of  
 4 the Social Security Act (42 U.S.C. 1320a–7) is  
 5 amended—

6 (1) in subsection (a), in the matter preceding  
 7 paragraph (1), by inserting “(including employment  
 8 under)” after “participation in”; and

9 (2) in subsection (b), in the matter preceding  
 10 paragraph (1), by inserting “(including employment  
 11 under)” after “participation in”.

12 (b) APPLICATION UNDER CIVIL MONEY PENALTY  
 13 AUTHORITY.—Section 1128A of the Social Security Act  
 14 (42 U.S.C. 1320a–7a) is amended—

15 (1) in subsection (a)(4), by striking “program  
 16 under title XVIII or a State health care program”  
 17 and inserting “Federal health care program” each  
 18 place it appears;

19 (2) in subsection (a)(5)—

20 (A) by striking “title XVIII of this Act, or  
 21 under a State health care program (as defined  
 22 in section 1128(h))” and inserting “a Federal  
 23 health care program”; and

24 (B) by striking “title XVIII, or a State  
 25 health care program (as so defined)” and in-  
 26 serting “such program”;

1           (3) in the last sentence of subsection (a), by  
 2           striking “and to direct the appropriate State agency  
 3           to exclude the person from participation in any State  
 4           health care program”; and

5           (4) in subsection (h), by striking “State agency  
 6           or agencies administering or supervising the admin-  
 7           istration of State health care programs (as defined  
 8           in section 1128(h))” and inserting “Federal or State  
 9           agency or agencies administering or supervising the  
 10          administration of any Federal health care program”.

11          (c) APPLICATION OF WAIVER PROVISIONS TO FED-  
 12          ERAL HEALTH CARE PROGRAMS.—Section 1128 of the  
 13          Social Security Act (42 U.S.C. 1320a–7) is amended—

14               (1) in subsection (c)(3)(B), by striking “upon  
 15               the request of a State” and inserting “upon the re-  
 16               quest of the director of a Federal health care pro-  
 17               gram”;

18               (2) in subsection (d)(3)(B)(i)—

19                       (A) by striking “State health care pro-  
 20                       gram” and inserting “Federal health care pro-  
 21                       gram”; and

22                       (B) by striking “State agency” and insert-  
 23                       ing “Federal or State agency”; and

24               (3) in subsection (d)(3)(B)(ii), by striking  
 25               “State health care program” and inserting “Federal

1 health care program (other than under title  
2 XVIII)”.  
3

4 (d) NOTICE PROVISION REGARDING FEDERAL  
5 HEALTH CARE PROGRAMS.—Section 1128 of the Social  
6 Security Act (42 U.S.C. 1320a–7) is amended—

7 (1) in the heading of subsection (d), by striking  
8 “TO STATE AGENCIES AND EXCLUSION UNDER  
9 STATE HEALTH CARE PROGRAMS” and inserting  
10 “AND EXCLUSION UNDER FEDERAL HEALTH CARE  
11 PROGRAMS”;

12 (2) in subsection (d)(1), by striking “State”  
13 and inserting “Federal”;

14 (3) in subsection (d)(2)—

15 (A) by striking “State agency” and insert-  
16 ing “Federal or State agency” each place it ap-  
17 pears; and

18 (B) by striking “State health care pro-  
19 gram” and inserting “Federal health care pro-  
20 gram” each place it appears;

21 (4) in subsection (d)(3)(A), by striking “State”  
22 and inserting “Federal”; and

23 (5) in subsection (g)(3)—

24 (A) by striking “State agency” and insert-  
ing “Federal or State agency”; and

1 (B) by striking “State health care pro-  
 2 gram” and inserting “Federal health care pro-  
 3 gram”.

4 (e) USE OF DEFINITION OF FEDERAL HEALTH CARE  
 5 PROGRAM AND TREATMENT OF FEDERAL EMPLOYEES  
 6 HEALTH BENEFITS PROGRAM AS A FEDERAL HEALTH  
 7 CARE PROGRAM.—Section 1128B(f) of the Social Security  
 8 Act (42 U.S.C. 1320a–7b(f)) is amended—

9 (1) in the matter preceding paragraph (1), by  
 10 inserting “and sections 1128 and 1128A” after “this  
 11 section”; and

12 (2) in paragraph (1), by striking “(other than  
 13 the health insurance program under chapter 89 of  
 14 title 5, United States Code)”.

15 (f) AUTHORITY TO EXCLUDE FROM FEDERAL  
 16 HEALTH CARE PROGRAMS BASED ON PRO REC-  
 17 OMMENDATIONS.—Section 1156(b)(1) of the Social Secu-  
 18 rity Act (42 U.S.C. 1320c–5(b)(1)) is amended—

19 (1) in the second sentence, by striking “eligi-  
 20 bility to provide services under this Act on a reim-  
 21 bursable basis” and inserting “participation in any  
 22 Federal health care program (as defined in section  
 23 1128B(f))”; and

1           (2) in the third sentence, by striking “eligibility  
2           to provide services on a reimbursable basis” and in-  
3           serting “participation in such programs”.

4           (g) EFFECTIVE DATE.—

5           (1) IN GENERAL.—Subject to paragraph (2),  
6           the amendments made by this section shall take ef-  
7           fect on the date of enactment of this Act.

8           (2) CONVICTIONS UNDER FEHBP.—The amend-  
9           ment made by subsection (e)(2) shall apply, with re-  
10          spect to convictions under the health insurance pro-  
11          gram under chapter 89 of title 5, United States  
12          Code, to convictions that occur on or after the date  
13          of enactment of this Act.

14   **SEC. 135. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.**

15          (a) IN GENERAL.—Section 1834(a)(1) of the Social  
16          Security Act (42 U.S.C. 1395m(a)(1)) is amended—

17               (1) in subparagraph (B)—

18                       (A) in clause (i), by striking “, or” at the  
19                       end and inserting a semicolon; and

20                       (B) by inserting after clause (ii) the fol-  
21                       lowing:

22                               “(iii) the least expensive amount that  
23                               the supplier of the item is paid by a  
24                               Medicare+Choice organization for such  
25                               item; or

“(iv) the least expensive amount that the supplier of the item is paid by any Federal health care program (as defined in section 1128B(f)) for such item;” and

(2) by adding at the end the following:

“(E) ADMINISTRATIVE COSTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), if—

“(I) the payment amount for an item is covered under clauses (iii) or (iv) of subparagraph (B); and

“(II) the Secretary determines that the administrative costs associated with billing and receiving reimbursement from the Secretary for the item exceeds the administrative costs associated with providing such item to a Medicare+Choice organization or another Federal health care program (as so defined);

then the Secretary shall adjust the payment rate for such item to reflect such excess.

“(ii) LIMITATION.—In no case may the payment rate for an item that is ad-



justed under clause (i) exceed the payment rate for such item determined in clauses (i) and (ii) of subparagraph (B).

“(iii) COLLECTION OF INFORMATION.—The Secretary shall collect from durable medical equipment suppliers that receive reimbursement under Federal health care programs (as so defined) such information as the Secretary determines is necessary in order to make the determination described in clause (i)(II).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items provided on or after January 1, 2000.

**SEC. 136. IMPLEMENTATION OF COMMERCIAL CLAIMS AUDITING SYSTEMS.**

(a) COMMERCIAL CLAIMS AUDITING SYSTEMS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall require medicare carriers to use commercial claims auditing systems in the processing of claims under part B of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for the purpose of identifying billing errors and abuses.

1           (2) SUPPLEMENT TO OTHER TECHNOLOGY.—

2       Commercial claims auditing systems required under  
3       paragraph (1) shall be used as a supplement to any  
4       other information technology used by medicare car-  
5       riers in processing claims under the medicare pro-  
6       gram.

7           (3) UNIFORMITY.—In order to ensure uni-  
8       formity in processing claims under the medicare pro-  
9       gram, the Secretary may require that medicare car-  
10      riers utilize 1 or more common commercial claims  
11      auditing systems, provided that the selection of such  
12      system or systems by the Secretary shall be—

13           (A) after due consideration of competing  
14      alternative systems; but

15           (B) without regard to any provision of law  
16      that requires the use of competitive procedures  
17      (as defined in section 4 of the Office of Federal  
18      Procurement Policy Act (41 U.S.C. 403)) or  
19      the publication of notice of proposed procure-  
20      ments.

21           (4) IMPLEMENTATION.—Commercial claims au-  
22      diting systems required under paragraph (1) shall be  
23      implemented by all medicare carriers by not later  
24      than 180 days after the date of enactment of this  
25      Act.

1 (b) MINIMUM SOFTWARE REQUIREMENTS.—Any  
 2 commercial claims auditing system required to be imple-  
 3 mented pursuant to subsection (a) shall, at a minimum—

4 (1) be a commercial item;

5 (2) surpass the capability of systems currently  
 6 used in the processing of claims under part B of the  
 7 medicare program; and

8 (3) be modifiable to—

9 (A) satisfy pertinent statutory require-  
 10 ments of the medicare program; and

11 (B) conform to policies of the Secretary re-  
 12 garding claims processing under such program.

13 (c) DISCLOSURE.—

14 (1) IN GENERAL.—Except as provided in para-  
 15 graph (2), notwithstanding any other provision of  
 16 law, any information technology (or data related  
 17 thereto) utilized by medicare carriers in establishing  
 18 a commercial claims auditing system pursuant to  
 19 subsection (a) shall not be subject to public disclo-  
 20 sure.

21 (2) AUTHORIZED DISCLOSURE.—The Secretary  
 22 may authorize the public disclosure of the informa-  
 23 tion described in paragraph (1) if the Secretary de-  
 24 termines that—

1 (A) release of such information is in the  
2 public interest; and

3 (B) the information to be released is not  
4 protected from disclosure under section 552(b)  
5 of title 5, United States Code.

6 (d) DEFINITIONS.—In this section—

7 (1) COMMERCIAL CLAIMS AUDITING SYSTEM.—  
8 The term “commercial claims auditing system”  
9 means a commercial specialized auditing system that  
10 includes edits which identify inappropriately coded  
11 health care claims.

12 (2) COMMERCIAL ITEM.—The term “commer-  
13 cial item” has the meaning given such term in sec-  
14 tion 4 of the Office of Federal Procurement Policy  
15 Act (41 U.S.C. 403).

16 (3) INFORMATION TECHNOLOGY.—The term  
17 “information technology” has the meaning given  
18 such term in subparagraphs (A) and (B) of section  
19 5002(3) of the Information Technology Management  
20 Reform Act of 1996 (40 U.S.C. 1401(3)), were such  
21 information technology to be acquired by an execu-  
22 tive agency.

23 (4) MEDICARE CARRIER.—The term “medicare  
24 carrier” means an entity that has a contract with

1 the Secretary pursuant to section 1842(a) of the So-  
 2 cial Security Act (42 U.S.C. 1395u(a)).

3 (5) SECRETARY.—The term “Secretary” means  
 4 the Secretary of Health and Human Services.

5 **SEC. 137. PARTIAL HOSPITALIZATION PAYMENT REFORMS.**

6 (a) LIMITATION ON LOCATION OF PROVISION OF  
 7 SERVICES.—

8 (1) IN GENERAL.—Section 1861(ff)(2) of the  
 9 Social Security Act (42 U.S.C. 1395x(ff)(2)) is  
 10 amended in the matter following subparagraph (I)—

11 (A) by striking “and furnished” and in-  
 12 serting “furnished”; and

13 (B) by inserting “, and furnished other  
 14 than in a skilled nursing facility or in an indi-  
 15 vidual’s personal residence” before the period.

16 (2) EFFECTIVE DATE.—The amendments made  
 17 by paragraph (1) shall apply to partial hospitaliza-  
 18 tion services furnished on or after the first day of  
 19 the third month beginning after the date of enact-  
 20 ment of this Act.

21 (b) QUALIFICATIONS FOR COMMUNITY MENTAL  
 22 HEALTH CENTERS.—Section 1861(ff)(3)(B) of the Social  
 23 Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended by  
 24 striking “entity” and all that follows and inserting the fol-  
 25 lowing: “entity that—

1 “(i) provides the mental health services de-  
 2 scribed in paragraph (1) of section 1913(c) of the  
 3 Public Health Service Act;

4 “(ii) meets applicable licensing or certification  
 5 requirements for community mental health centers  
 6 in the State in which it is located; and

7 “(iii) meets such additional standards or re-  
 8 quirements as the Secretary may specify to ensure—

9 “(I) the health and safety of individuals  
 10 being furnished such services;

11 “(II) the effective or efficient furnishing of  
 12 such services (including protecting against  
 13 fraud, waste, and abuse); and

14 “(III) the compliance of such entity with  
 15 the criteria described in such section.”.

16 (c) REENROLLMENT OF PROVIDERS OF CMHC PAR-  
 17 TIAL HOSPITALIZATION SERVICES.—

18 (1) IN GENERAL.—With respect to each com-  
 19 munity mental health center that furnishes partial  
 20 hospitalization services for which payment is made  
 21 under title XVIII of the Social Security Act, the  
 22 Secretary of Health and Human Services shall pro-  
 23 vide for periodic recertification to ensure that the  
 24 provision of such services complies with section  
 25 1913(c) of the Public Health Service Act.

1           (2) DEADLINE FOR FIRST RECERTIFICATION.—

2           The first recertification under paragraph (1) shall be  
3           completed not later than 1 year after the date of en-  
4           actment of this Act.

5           (d) PROSPECTIVE PAYMENT SYSTEM FOR PARTIAL  
6   HOSPITALIZATION SERVICES.—

7           (1) ESTABLISHMENT OF SYSTEM.—Section  
8           1833 of the Social Security Act (42 U.S.C. 1395l)  
9           is amended by inserting after subsection (o) the fol-  
10          lowing:

11          “(p)(1) The Secretary may establish by regulation a  
12       prospective payment system for partial hospitalization  
13       services provided by a community mental health center or  
14       by a hospital to its outpatients. The system shall provide  
15       for appropriate payment levels for efficient centers and  
16       hospitals and take into account payment levels for similar  
17       services furnished by other efficient entities.

18          “(2) A prospective payment system established pur-  
19       suant to paragraph (1) shall provide for payment amounts  
20       for—

21               “(A) the first year in which such system ap-  
22       plies, at a level so that, as estimated by the Sec-  
23       retary, the total aggregate payments under this part  
24       (including payments attributable to deductibles and  
25       coinsurance) for such year are not greater than the

1 total aggregate payments that would have otherwise  
 2 been made under this part if such system had not  
 3 been implemented (assuming full implementation of  
 4 the provisions contained in subsections (a) through  
 5 (c) of section 17 of the Medicare Waste Tax Reduc-  
 6 tion Act of 1999); and

7 “(B) each subsequent year, in an amount equal  
 8 to the payment amount provided for under this  
 9 paragraph for the preceding year updated by the  
 10 percentage increase in the Consumer Price Index for  
 11 all urban consumers (all items; United States city  
 12 average) for the 12-month period ending with Sep-  
 13 tember of that preceding year.”.

14 (2) COINSURANCE.—Section 1866(a)(2)(A) of  
 15 the Social Security Act (42 U.S.C. 1395cc(a)(2)(A))  
 16 is amended by adding at the end the following: “In  
 17 the case of services described in section  
 18 1832(a)(2)(J), clause (ii) of the first sentence of this  
 19 subparagraph shall be applied by substituting the  
 20 payment basis established under section 1833(p) for  
 21 the reasonable charges.”.

22 (3) CONFORMING AMENDMENTS.—

23 (A) Section 1832(a)(2) of the Social Secu-  
 24 rity Act (42 U.S.C. 1395k(a)(2)) is amended—



1 (i) in subparagraph (B), by striking  
 2 “or subparagraph (I)” and inserting “, (I),  
 3 or (J)”; and

4 (ii) in subparagraph (J), by striking  
 5 “provided by a community mental health  
 6 center (as described in section  
 7 1861(ff)(2)(B))”.

8 (B) Section 1833(a) of the Social Security  
 9 Act (42 U.S.C. 1395l(a)) is amended—

10 (i) in paragraph (2) in the matter pre-  
 11 ceding subparagraph (A), by striking “(H),  
 12 and (I)” and inserting “(H), (I), and (J)”;

13 (ii) in paragraph (8), by striking  
 14 “and” at the end;

15 (iii) in paragraph (9), by striking the  
 16 period at the end and inserting “; and”;  
 17 and

18 (iv) by adding at the end the fol-  
 19 lowing:

20 “(10) in the case of partial hospitalization serv-  
 21 ices, 80 percent of the payment basis under the pro-  
 22 spective payment system established under section  
 23 1833(p).”.

24 (4) EFFECTIVE DATE.—The amendments made  
 25 by paragraphs (2) and (3) apply to services fur-

1 nished on or after January 1 of the first year that  
 2 begins at least 6 months after the date on which  
 3 regulations are issued under section 1833(p) of the  
 4 Social Security Act (42 U.S.C. 1395l(p)) (as in-  
 5 serted by paragraph (1)).

6 **SEC. 138. EXPANSION OF MEDICARE SENIOR WASTE PA-**  
 7 **TROL NATIONWIDE.**

8 There are authorized to be appropriated \$25,000,000  
 9 in fiscal year 2000, and such sums as are necessary for  
 10 fiscal years 2001 through 2003, for the purpose of car-  
 11 rying out, and expanding nationwide, the Health Care  
 12 Anti-Fraud, Waste and Abuse Community Volunteer  
 13 Demonstration Projects conducted by the Administration  
 14 on Aging pursuant to the Omnibus Consolidated Appro-  
 15 priations Act, 1997 (Public Law 104–208).

16 **SEC. 139. APPLICATION OF INHERENT REASONABLENESS**  
 17 **TO ALL PART B SERVICES OTHER THAN PHY-**  
 18 **SICIANS' SERVICES.**

19 (a) REPEAL OF CERTAIN PROVISIONS OF THE BAL-  
 20 ANCED BUDGET ACT OF 1997.—

21 (1) REPEAL.—Section 4316 of the Balanced  
 22 Budget Act of 1997 (Public Law 105–33; 111 Stat.  
 23 390), and the amendments made by such section,  
 24 are repealed effective August 5, 1997.

1           (2) APPLICABILITY.—Effective August 5, 1997,  
 2           the Social Security Act shall be applied and adminis-  
 3           tered as if section 4316 of the Balanced Budget Act  
 4           of 1997 (Public Law 105–33; 111 Stat. 390), and  
 5           the amendments made by such section, had not been  
 6           enacted.

7           (b) APPLICATION OF INHERENT REASONABLENESS  
 8           TO ALL PART B SERVICES OTHER THAN PHYSICIANS’  
 9           SERVICES.—

10           (1) IN GENERAL.—Section 1842(b)(8) of the  
 11           Social Security Act (42 U.S.C. 1395u(b)(8)) is  
 12           amended to read as follows:

13           “(8) The Secretary shall describe by regulation the  
 14           factors to be used in determining the cases (of particular  
 15           items or services) in which the application of this part  
 16           (other than to physicians’ services paid under section  
 17           1848) results in the determination of an amount that, be-  
 18           cause of its being grossly excessive or grossly deficient,  
 19           is not inherently reasonable, and provide in those cases  
 20           for the factors to be considered in establishing an amount  
 21           that is realistic and equitable.”.

22           (2) EFFECTIVE DATE.—The amendment made  
 23           by this subsection shall take effect August 5, 1997.

1 **SEC. 140. STANDARDS REGARDING PAYMENT FOR CERTAIN**  
 2 **ORTHOTICS AND PROSTHETICS.**

3 (a) STANDARDS.—

4 (1) IN GENERAL.—Section 1834(h)(1) of the  
 5 Social Security Act (42 U.S.C. 1395m(h)(1)) is  
 6 amended by adding at the end the following:

7 “(F) ESTABLISHMENT OF STANDARDS FOR  
 8 CERTAIN ITEMS.—

9 “(i) IN GENERAL.—No payment shall  
 10 be made for an applicable item unless such  
 11 item is provided by a qualified practitioner  
 12 or a qualified supplier under the system es-  
 13 tablished by the Secretary under clause  
 14 (iii). For purposes of the preceding sen-  
 15 tence, if a qualified practitioner or a quali-  
 16 fied supplier contracts with an entity to  
 17 provide an applicable item, then no pay-  
 18 ment shall be made for such item unless  
 19 the entity is also a qualified supplier.

20 “(ii) DEFINITIONS.—In this  
 21 subparagraph—

22 “(I) APPLICABLE ITEM.—The  
 23 term ‘applicable item’ means orthotics  
 24 and prosthetics that require edu-  
 25 cation, training, and experience to  
 26 custom fabricate such item. Such

1 term does not include shoes and shoe  
2 inserts.

3 “(II) QUALIFIED PRACTI-  
4 TIONER.—The term ‘qualified practi-  
5 tioner’ means a physician or health  
6 professional who—

7 “(aa) is specifically trained  
8 and educated to provide or man-  
9 age the provision of custom-de-  
10 signed, fabricated, modified, and  
11 fitted orthotics and prosthetics,  
12 and is either certified by the  
13 American Board for Certification  
14 in Orthotics and Prosthetics,  
15 Inc., or is credentialed and ap-  
16 proved by a program that the  
17 Secretary determines, in con-  
18 sultation with appropriate ex-  
19 perts in orthotics and prosthetics,  
20 has training and education stand-  
21 ards that are necessary to pro-  
22 vide applicable items;

23 “(bb) is licensed in orthotics  
24 or prosthetics by the State in

1 which the applicable item is sup-  
2 plied; or

3 “(cc) has completed at least  
4 10 years practice in the provision  
5 of applicable items.

6 “(III) QUALIFIED SUPPLIER.—  
7 The term ‘qualified supplier’ means  
8 any entity that is—

9 “(aa) accredited by the  
10 American Board for Certification  
11 in Orthotics and Prosthetics,  
12 Inc.; or

13 “(bb) accredited and ap-  
14 proved by a program that the  
15 Secretary determines has accredi-  
16 tation and approval standards  
17 that are essentially equivalent to  
18 those of such Board.

19 “(iii) SYSTEM.—The Secretary, in  
20 consultation with appropriate experts in  
21 orthotics and prosthetics, shall establish a  
22 system under which the Secretary shall—

23 “(I) determine which items are  
24 applicable items and formulate a list  
25 of such items;

1 “(II) review the applicable items  
 2 billed under the coding system estab-  
 3 lished under this title; and

4 “(III) limit payment for applica-  
 5 ble items pursuant to clause (i).”.

6 (2) EFFECTIVE DATE.—The amendment made  
 7 by paragraph (1) shall apply to items provided on or  
 8 after January 1, 2000.

9 (b) REVISION OF DEFINITION OF ORTHOTICS.—

10 (1) IN GENERAL.—Section 1861(s)(9) of the  
 11 Social Security Act (42 U.S.C. 1395x(s)(9)) is  
 12 amended by inserting “(including such braces that  
 13 are used in conjunction with, or as components of,  
 14 other medical or non-medical equipment when pro-  
 15 vided by a qualified practitioner (as defined in sub-  
 16 clause (II) of section 1834(h)(1)(F))) or a qualified  
 17 supplier (as defined in subclause (III) of such sec-  
 18 tion)” after “braces”.

19 (2) EFFECTIVE DATE.—The amendment made  
 20 by paragraph (1) shall apply to items provided on or  
 21 after January 1, 2000.

1 **SEC. 141. INCREASED FLEXIBILITY IN CONTRACTING FOR**  
 2 **MEDICARE CLAIMS PROCESSING.**

3 (a) CARRIERS TO INCLUDE ENTITIES THAT ARE  
 4 NOT INSURANCE COMPANIES.—Section 1842 of the Social  
 5 Security Act (42 U.S.C. 1395u) is amended—

6 (1) in subsection (a), in the matter preceding  
 7 paragraph (1), by striking “with carriers” and in-  
 8 serting “with agencies and organizations (in this  
 9 section referred to as ‘carriers’)”; and

10 (2) by striking subsection (f).

11 (b) SECRETARIAL FLEXIBILITY IN CONTRACTING  
 12 FOR AND IN ASSIGNING FISCAL INTERMEDIARY AND CAR-  
 13 RIER FUNCTIONS.—

14 (1) IN GENERAL.—

15 (A) Section 1816(a) of the Social Security  
 16 Act (42 U.S.C. 1395h(a)) is amended to read  
 17 as follows:

18 “(a)(1) The Secretary may enter into contracts with  
 19 agencies or organizations to perform any or all of the fol-  
 20 lowing functions, or parts of those functions (or, to the  
 21 extent provided in a contract, to secure performance there-  
 22 of by other organizations) to—

23 “(A) determine (subject to the provisions of sec-  
 24 tion 1878 and to such review by the Secretary as  
 25 may be provided for by the contracts) the amount of



1 the payments required pursuant to this part to be  
2 made to providers of services;

3 “(B) make payments described in subparagraph  
4 (A);

5 “(C) provide consultative services to institutions  
6 or agencies to enable them to establish and maintain  
7 fiscal records necessary for purposes of this part and  
8 otherwise to qualify as providers of services;

9 “(D) serve as a center for, and communicate to  
10 individuals entitled to benefits under this part and  
11 to providers of services, any information or instruc-  
12 tions furnished to the agency or organization by the  
13 Secretary, and serve as a channel of communication  
14 from individuals entitled to benefits under this part  
15 and from providers of services to the Secretary;

16 “(E) make such audits of the records of pro-  
17 viders of services as may be necessary to ensure that  
18 proper payments are made under this part;

19 “(F) perform the functions described by sub-  
20 section (d); and

21 “(G) perform such other functions as are nec-  
22 essary to carry out the purposes of this part.

23 “(2) As used in this title and title XI, the term ‘fiscal  
24 intermediary’ means an agency or organization with a con-  
25 tract under this section.”.

1           (B) Section 1816(b)(1)(A) of the Social  
2           Security Act (42 U.S.C. 1395h(b)(1)(A)) is  
3           amended by striking “after applying the stand-  
4           ards, criteria, and procedures” and inserting  
5           “after evaluating the ability of the agency or  
6           organization to fulfill the contract performance  
7           requirements”.

8           (C) Section 1816(d) of the Social Security  
9           Act (42 U.S.C. 1395h(d)) is amended to read  
10          as follows:

11         “(d) Each provider of services shall have a fiscal  
12         intermediary that—

13                 “(1) acts as a single point of contact for the  
14         provider of services under this part;

15                 “(2) makes its services sufficiently available to  
16         meet the needs of the provider of services; and

17                 “(3) is responsible and accountable for arrang-  
18         ing the resolution of issues raised under this part by  
19         the provider of services.”.

20           (D) Section 1816(e) of the Social Security  
21           Act (42 U.S.C. 1395h(d)) is amended to read  
22           as follows:

23         “(e) The Secretary, in evaluating the performance of  
24         a fiscal intermediary, may solicit comments from providers  
25         of services.”.

1                   (E) Section 1816(f)(1) of the Social Secu-  
 2                   rity Act (42 U.S.C. 1395h(f)(1)) is amended to  
 3                   read as follows:

4           “(f)(1) With respect to performance requirements  
 5 under subsection (a), the Secretary may consult with—

6                   “(A) Medicare+Choice organizations under  
 7                   part C of this title;

8                   “(B) providers of services and other persons  
 9                   who furnish items or services for which payment  
 10                  may be made under this title; and

11                  “(C) organizations and agencies performing  
 12                  functions necessary to carry out the purposes of this  
 13                  part.”.

14                   (F) Section 1842(b)(2) of the Social Secu-  
 15                   rity Act (42 U.S.C. 1395u(b)(2)) is amended—

16                               (i) in subparagraph (A)—

17                                       (I) by inserting “(i)” before “No  
 18                                       such contract”;

19                                       (II) by striking the second sen-  
 20                                       tence and inserting the following:

21           “(ii) With respect to performance requirements for  
 22 contracts under subsection (a), the Secretary may consult  
 23 with—

24                   “(I) Medicare+Choice organizations under part  
 25                   C of this title;

1           “(II) providers of services and other persons  
2           who furnish items or services for which payment  
3           may be made under this title; and

4           “(III) organizations and agencies performing  
5           functions necessary to carry out the purposes of this  
6           part.”;

7                               (III) by striking the third sen-  
8                               tence; and

9                               (IV) by striking the fourth sen-  
10                              tence and inserting the following:

11           “(iii) The Secretary may not require, as a condition  
12           of entering into a contract under this section or under sec-  
13           tion 1871, that a carrier match data obtained other than  
14           in its activities under this part with data used in the ad-  
15           ministration of this part for purposes of identifying situa-  
16           tions in which section 1862(b) may apply.”;

17                              (ii) in subparagraph (B), in the mat-  
18                              ter preceding clause (i), by striking “estab-  
19                              lish standards” and inserting “develop con-  
20                              tract performance requirements”; and

21                              (iii) in subparagraph (D), by striking  
22                              “standards and criteria” each place it ap-  
23                              pears and inserting “contract performance  
24                              requirements”.

25                              (2) CONFORMING AMENDMENTS.—

1 (A) Section 1816(b) of the Social Security  
2 Act (42 U.S.C. 1395h(b)) is amended—

3 (i) in the matter preceding paragraph  
4 (1), by striking “an agreement” and in-  
5 serting “a contract”;

6 (ii) in paragraph (1)(B), by striking  
7 “agreement” and inserting “contract”; and

8 (iii) in paragraph (2)(A), by striking  
9 “agreement” and inserting “contract”.

10 (B) Section 1816(c) of the Social Security  
11 Act (42 U.S.C. 1395h(c)) is amended—

12 (i) in paragraph (1)—

13 (I) in the first sentence, by strik-  
14 ing “An agreement” and inserting “A  
15 contract”; and

16 (II) in the last sentence, by strik-  
17 ing “an agreement” and inserting “a  
18 contract”;

19 (ii) in paragraph (2)(A), in the matter  
20 preceding clause (i)—

21 (I) by striking “agreement” and  
22 inserting “contract”; and

23 (II) by inserting “that provides  
24 for making payments under this part”  
25 after “this section”;

1 (iii) in paragraph (2)(C), by striking  
2 “hospital, rural primary care hospital,  
3 skilled nursing facility, home health agen-  
4 cy, hospice program, comprehensive out-  
5 patient rehabilitation facility, or rehabilita-  
6 tion agency” and inserting “provider of  
7 services (as defined in section 1861(u))”;  
8 and

9 (iv) in paragraph (3)(A)—

10 (I) by striking “agreement” and  
11 inserting “contract”; and

12 (II) by inserting “that provides  
13 for making payments under this part”  
14 after “this section”.

15 (C) Section 1816(h) of the Social Security  
16 Act (42 U.S.C. 1395h(h)) is amended—

17 (i) by striking “An agreement” and  
18 inserting “A contract”; and

19 (ii) by striking “the agreement” each  
20 place it appears and inserting “the con-  
21 tract”.

22 (D) Section 1816(i)(1) of the Social Secu-  
23 rity Act (42 U.S.C. 1395h(i)(1)) is amended by  
24 striking “an agreement” and inserting “a con-  
25 tract”.

1 (E) Section 1816(j) of the Social Security  
2 Act (42 U.S.C. 1395h(j)) is amended in the  
3 matter preceding paragraph (1)—

4 (i) by striking “An agreement” and  
5 inserting “A contract”; and

6 (ii) by striking “for home health serv-  
7 ices, extended care services, or post-hos-  
8 pital extended care services”.

9 (F) Section 1816(k) of the Social Security  
10 Act (42 U.S.C. 1395h(k)) is amended—

11 (i) by striking “An agreement” and  
12 inserting “A contract”; and

13 (ii) by inserting “(as appropriate)”  
14 after “submit”.

15 (G) Section 1816(l) of the Social Security  
16 Act (42 U.S.C. 1395h(l)) is amended by strik-  
17 ing “an agreement” and inserting “a contract”.

18 (H) Section 1842(a) of the Social Security  
19 Act (42 U.S.C. 1395u(a)) is amended—

20 (i) in the matter preceding paragraph  
21 (1) (as amended by subsection (a)(1))—

22 (I) by striking “carriers with  
23 which agreements” and inserting “sin-  
24 gle contracts under section 1816 and  
25 this section together, or separate con-

1                   tracts with eligible agencies and orga-  
2                   nizations with which contracts”; and

3                   (II) by striking “some or all of  
4                   the following functions” and inserting  
5                   “any or all of the following functions,  
6                   or parts of those functions”; and

7                   (ii) in paragraph (3), by inserting “(to  
8                   and from individuals enrolled under this  
9                   part and to and from physicians and other  
10                  entities that furnish items and services)”  
11                  after “communication”.

12                  (I) Section 1842(b) of the Social Security  
13                  Act (42 U.S.C. 1395u(b)(2)(C)) is amended—

14                  (i) in paragraph (2)(C), in the first  
15                  sentence, by inserting “(as appropriate)”  
16                  after “carriers”;

17                  (ii) in paragraph (3), in the matter  
18                  preceding subparagraph (A), by inserting  
19                  “(as appropriate)” after “contract”;

20                  (iii) in paragraph (7)(A), in the mat-  
21                  ter preceding clause (i), by striking “the  
22                  carrier” and inserting “a carrier”; and

23                  (iv) in paragraph (11)(A), in the mat-  
24                  ter preceding clause (i), by inserting “(as  
25                  appropriate)” after “each carrier”.



1 (J) Section 1842(h) of the Social Security  
 2 Act (42 U.S.C. 1395u(h)) is amended—

3 (i) in paragraph (2), in the first  
 4 sentence—

5 (I) by striking “an agreement”  
 6 and inserting “a contract”; and

7 (II) by inserting “(as appro-  
 8 priate)” after “shall”;

9 (ii) in paragraph (3)(A), by striking  
 10 “an agreement” and inserting “a con-  
 11 tract”;

12 (iii) in paragraph (3)(B), in the third  
 13 sentence, by striking “agreements” and in-  
 14 serting “contracts”;

15 (iv) in paragraph (5)(A), by inserting  
 16 “(as appropriate)” after “carriers”; and

17 (v) in paragraph (8)—

18 (I) by striking “an agreement”  
 19 and inserting “a contract”; and

20 (II) by striking “such agree-  
 21 ment” and inserting “such contract”.

22 (c) ELIMINATION OF SPECIAL PROVISIONS FOR TER-  
 23 MINATIONS OF CONTRACTS.—

24 (1) Section 1816 of the Social Security Act (42  
 25 U.S.C. 1395h) is amended—

1 (A) in subsection (b), in the matter pre-  
 2 ceding paragraph (1), by striking “or renew”;

3 (B) in subsection (c)(1), in the last sen-  
 4 tence, by striking “or renewing”; and

5 (C) by striking subsection (g).

6 (2) Section 1842(b) of the Social Security Act  
 7 (42 U.S.C. 1395u(b)(2)) is amended by striking  
 8 paragraph (5).

9 (d) REPEAL OF FISCAL INTERMEDIARY REQUIRE-  
 10 MENTS THAT ARE NOT COST-EFFECTIVE.—Section  
 11 1816(f)(2) of the Social Security Act (42 U.S.C.  
 12 1395h(f)(2)) is amended to read as follows:

13 “(2) The contract performance requirements de-  
 14 scribed in paragraph (1) shall include—

15 “(A) with respect to claims for services fur-  
 16 nished under this part by any provider of services  
 17 (as defined in section 1861(u)) other than a hos-  
 18 pital, whether such agency or organization is able to  
 19 process 75 percent of reconsiderations within 60  
 20 days and 90 percent of reconsiderations within 90  
 21 days; and”.

22 (e) REPEAL OF COST REIMBURSEMENT REQUIRE-  
 23 MENTS.—

24 (1) Section 1816(c)(1) of the Social Security  
 25 Act (42 U.S.C. 1395h(c)(1)) is amended—

1 (A) in the first sentence—

2 (i) by striking the comma after “ap-  
3 propriate” and inserting “and”; and

4 (ii) by striking “, and shall provide  
5 for payment” and all that follows before  
6 the period; and

7 (B) by striking the second and third sen-  
8 tences.

9 (2) Section 1842(c)(1) of the Social Security  
10 Act (42 U.S.C. 1395h(c)(1)) is amended—

11 (A) in the first sentence—

12 (i) by striking “section shall provide”  
13 and inserting “section may provide”; and

14 (ii) by striking “, and shall provide”  
15 and all that follows before the period; and

16 (B) by striking the second and third sen-  
17 tences.

18 (3) Section 2326 of the Deficit Reduction Act  
19 of 1984 (42 U.S.C. 1395h note) is amended by  
20 striking subsection (a).

21 (f) SECRETARIAL FLEXIBILITY WITH RESPECT TO  
22 RENEWING CONTRACTS AND TRANSFER OF FUNC-  
23 TIONS.—

1           (1) Section 1816(c) of the Social Security Act  
2           (42 U.S.C. 1395h(c)) is amended by adding at the  
3           end the following:

4           “(4)(A) Except as provided in laws with general ap-  
5           plicability to Federal acquisition and procurement or in  
6           subparagraph (B), the Secretary shall use competitive pro-  
7           cedures when entering into contracts under this section.

8           “(B)(i) The Secretary may renew a contract with a  
9           fiscal intermediary under this section from term to term  
10          without regard to section 5 of title 41, United States Code,  
11          or any other provision of law requiring competition, if the  
12          fiscal intermediary has met or exceeded the performance  
13          requirements established in the current contract.

14          “(ii) Functions may be transferred among fiscal  
15          intermediaries without regard to any provision of law re-  
16          quiring competition. However, the Secretary shall ensure  
17          that performance quality is considered in such transfers.”.

18           (2) Section 1842(b)(1) of the Social Security  
19          Act (42 U.S.C. 1395u(b)(1)) is amended to read as  
20          follows:

21          “(b)(1)(A) Except as provided in laws with general  
22          applicability to Federal acquisition and procurement or in  
23          subparagraph (B), the Secretary shall use competitive pro-  
24          cedures when entering into contracts under this section.

1       “(B)(i) The Secretary may renew a contract with a  
 2 carrier under subsection (a) from term to term without  
 3 regard to section 5 of title 41, United States Code, or any  
 4 other provision of law requiring competition, if the carrier  
 5 has met or exceeded the performance requirements estab-  
 6 lished in the current contract.

7       “(ii) Functions may be transferred among carriers  
 8 without regard to any provision of law requiring competi-  
 9 tion. However, the Secretary shall ensure that perform-  
 10 ance quality is considered in such transfers.”.

11       (g) YEAR 2000 COMPLIANCE.—

12               (1) Section 1816(f)(2) of the Social Security  
 13 Act (42 U.S.C. 1395h(f)(2)) (as amended by sub-  
 14 section (d)) is amended by adding at the end the fol-  
 15 lowing:

16               “(B) a requirement that, by such time as the  
 17 Secretary considers reasonable, the information tech-  
 18 nology that is used or acquired by the agency or or-  
 19 ganization to carry out its responsibilities under this  
 20 title (to the extent that the Secretary finds such in-  
 21 formation technology is under the control of such  
 22 agency or organization)—

23               “(i) meets the definition of ‘Year 2000  
 24 compliant’ under the Federal Acquisition Regu-  
 25 lation (concerning accurate processing of date

1 and time data (including calculating, com-  
 2 paring, and sequencing) from, into, and be-  
 3 tween the 20th and 21st centuries, and the  
 4 years 1999 and 2000 and leap year calcula-  
 5 tions) but without regard to whether the infor-  
 6 mation technology is being acquired; and

7 “(ii) meets such other criteria for Year  
 8 2000 compliance as the Secretary considers ap-  
 9 propriate.”.

10 (2) Section 1842(b)(2)(A)(i) of the Social Secu-  
 11 rity Act (42 U.S.C. 1395u(b)(2)(A)(i)) (as amended  
 12 by subsection (b)(1)(F)) is amended by striking the  
 13 period and inserting “, including a requirement that,  
 14 by such time as the Secretary considers reasonable,  
 15 the information technology that is used or acquired  
 16 by such carrier to carry out its responsibilities under  
 17 this title (to the extent that the Secretary finds such  
 18 information technology is under the control of such  
 19 carrier) meets—

20 “(I) the definition of ‘Year 2000 compliant’  
 21 under the Federal Acquisition Regulation (con-  
 22 cerning accurate processing of date and time data  
 23 (including calculating, comparing, and sequencing)  
 24 from, into, and between the 20th and 21st centuries,  
 25 and the years 1999 and 2000 and leap year calcula-

1        tions) but without regard to whether the information  
 2        technology is being acquired; and

3            “(II) such other criteria for Year 2000 compli-  
 4        ance as the Secretary considers appropriate.”.

5        (h) WAIVER OF COMPETITIVE REQUIREMENTS FOR  
 6        INITIAL CONTRACTS.—Contracts that have periods that  
 7        begin before or during the 1-year period that begins on  
 8        the first day of the fourth calendar month that begins  
 9        after the date of enactment of this Act may be entered  
 10       into under section 1816(a) or 1842(a) of the Social Secu-  
 11       rity Act (42 U.S.C. 1395h(a) and 1395u(a)) without re-  
 12       gard to any provision of law requiring use of competitive  
 13       procedures.

14       (i) EFFECTIVE DATES.—

15            (1) The amendments made by subsection (c)  
 16        apply to contracts that have periods ending on or  
 17        after the end of the third calendar month that be-  
 18        gins after the date of enactment of this Act.

19            (2) The amendments made by subsections (a),  
 20        (b), (d), and (e) apply to contracts that have periods  
 21        beginning after the third calendar month that begins  
 22        after the date of enactment of this Act.

23            (3) The amendments made by subsection (f)  
 24        apply to contracts that have periods that begin after

1 the end of the 1-year period specified in paragraph  
 2 (1) of this subsection.

3 (4) The amendment made by subsection (g)  
 4 shall take effect on the date of enactment of this  
 5 Act.

## 6 **Subtitle D—Reduction in Student** 7 **Loan Fees**

### 8 **SEC. 151. REDUCTION IN STUDENT LOAN FEES.**

9 (a) SUBSIDIZED FEDERAL STAFFORD LOANS.—Sub-  
 10 paragraph (H) of section 428(b)(1) of the Higher Edu-  
 11 cation Act of 1965 (20 U.S.C. 1078(b)(1)) is amended—

12 (1) by striking “not more than”; and

13 (2) by striking “will not be used for incentive  
 14 payments to lenders” and inserting “shall be paid to  
 15 the Federal Government for deposit in the Treas-  
 16 ury”.

17 (b) UNSUBSIDIZED STAFFORD LOAN AND PLUS  
 18 LOAN INSURANCE PREMIUM REDIRECTION.—

19 (1) UNSUBSIDIZED STAFFORD LOANS.—Section  
 20 428H(h) of the Higher Education Act of 1965 (20  
 21 U.S.C. 1078–8(h)) is amended—

22 (A) by striking “may” and inserting  
 23 “shall”;

24 (B) by striking “not more than”;



1 (C) by striking “, if such premium will not  
2 be used for incentive payments to lenders”; and

3 (D) by inserting at the end the following:  
4 “The proceeds of the insurance premium shall  
5 be paid to the Federal Government for deposit  
6 into the Treasury.”.

7 (2) PLUS LOANS.—Section 428B of the Higher  
8 Education Act of 1965 (20 U.S.C. 1078–2) is  
9 amended by adding after subsection (f) the fol-  
10 lowing:

11 “(g) INSURANCE PREMIUM.—Each State or non-  
12 profit private institution or organization having an agree-  
13 ment with the Secretary under section 428(b)(1) shall  
14 charge the borrower of a loan made under this section a  
15 single insurance premium in the amount of 1 percent of  
16 the principal amount of the loan. The proceeds of the in-  
17 surance premium shall be paid to the Federal Government  
18 for deposit into the Treasury.”.

19 **Subtitle E—Limitations on Defense**  
20 **Funding for Fiscal Years 2000**  
21 **Through 2004**

22 **SEC. 161. BUDGET AUTHORITY.**

23 Notwithstanding any other provision of law, the total  
24 amount of the budget authority considered as being avail-  
25 able for budget function 050 (National Defense) for fiscal

1 years 2000 through 2004 may not exceed the following  
2 amounts:

3 (1) FISCAL YEAR 2000.—For fiscal year 2000,  
4 \$276,348,000,000.

5 (2) FISCAL YEAR 2001.—For fiscal year 2001,  
6 \$283,367,000,000.

7 (3) FISCAL YEAR 2002.—For fiscal year 2002,  
8 \$290,470,000,000.

9 (4) FISCAL YEAR 2003.—For fiscal year 2003,  
10 \$297,903,000,000.

11 (5) FISCAL YEAR 2004.—For fiscal year 2004,  
12 \$306,024,000,000.

13 **SEC. 162. PROTECTION OF READINESS AND QUALITY OF**  
14 **LIFE.**

15 Within the limits set forth in section 161, the  
16 amounts available for budget function 050 (National De-  
17 fense) for the fiscal years covered by that section shall  
18 be expended in a manner that does not adversely affect  
19 the readiness of the Armed Forces and the quality of life  
20 of military personnel, military retirees, and their families.

21 **SEC. 163. EXPENDITURES NOT CONSIDERED EMERGENCY**  
22 **EXPENDITURES.**

23 (a) IN GENERAL.—Amounts expended for readiness,  
24 or for peacekeeping operations that began before Sep-  
25 tember 30, 1999, may not be considered expenditures for

1 emergency requirements within the meaning of section  
 2 251(b)(2)(A) of the Balanced Budget and Emergency  
 3 Deficit Control Act of 1985.

4 (b) EXCEPTION.—The limitation on treatment of ex-  
 5 penditures for peacekeeping operations under subsection  
 6 (a) does not apply to expenditures for any such operation  
 7 that significantly increases, in terms of the size of the  
 8 forces involved or in tempo, after September 30, 1999.

## 9 **Subtitle F—Internal Revenue Code** 10 **Provisions**

### 11 **SEC. 171. RECAPTURE OF UNIFIED CREDIT FOR LARGE ES-** 12 **TATES.**

13 (a) IN GENERAL.—Paragraph (2) of section 2001(c)  
 14 of the Internal Revenue Code of 1986 (relating to phase-  
 15 out of graduated rates and unified credit) is amended by  
 16 striking “\$10,000,000” and all that follows and inserting  
 17 “\$10,000,000. The amount of the increase under the pre-  
 18 ceding sentence shall not exceed the sum of the applicable  
 19 credit amount under section 2010(c) (determined without  
 20 regard to section 2057(a)(3)) and \$359,200.”

21 (b) EFFECTIVE DATE.—The amendment made by  
 22 this section shall apply to decedents dying after the date  
 23 of the enactment of this Act.

1 **SEC. 172. REPEAL OF PERCENTAGE DEPLETION FOR CER-**  
 2 **TAIN NONFUEL MINERALS MINED ON FED-**  
 3 **ERAL LANDS.**

4 (a) IN GENERAL.—Section 613 of the Internal Rev-  
 5 enue Code of 1986 (relating to percentage depletion) is  
 6 amended by adding at the end the following new sub-  
 7 section:

8 “(f) DENIAL OF PERCENTAGE DEPLETION FOR CER-  
 9 TAIN NONFUEL MINERALS MINED ON FEDERAL  
 10 LANDS.—

11 “(1) IN GENERAL.—In the case of any applica-  
 12 ble nonfuel mineral, the allowance for depletion shall  
 13 be computed without reference to this section.

14 “(2) APPLICABLE NONFUEL MINERAL.—For  
 15 purposes of this subsection, the term ‘applicable  
 16 nonfuel mineral’ means any mineral which—

17 “(A) is subject to a mining claim under  
 18 chapter six of title XXXII of the Revised Stat-  
 19 utes (30 U.S.C. 21 et seq.) (commonly referred  
 20 to as the ‘General Mining Law of 1872’), or

21 “(B) was originally acquired (whether or  
 22 not by the taxpayer) pursuant to a patent  
 23 granted under such chapter.”

24 (b) AGGREGATION OF MINERAL INTERESTS.—Para-  
 25 graph (1) of section 614(c) of the Internal Revenue Code  
 26 of 1986 (relating to election to aggregate separate inter-

1 ests) is amended by adding at the end the following new  
 2 sentence: “A taxpayer may not elect to aggregate a sepa-  
 3 rate operating mineral interest in any applicable nonfuel  
 4 mineral (as defined in section 613(f)(2)) with an interest  
 5 in a mineral other than such an applicable nonfuel min-  
 6 eral.”

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendments made by  
 9 this section shall apply to taxable years beginning  
 10 after the date of the enactment of this Act.

11 (2) SPECIAL RULE FOR AGGREGATED MINERAL  
 12 INTERESTS.—

13 (A) IN GENERAL.—If, on or before the  
 14 first date on which the Committee on Ways and  
 15 Means of the House of Representatives or the  
 16 Committee on Finance of the Senate takes ac-  
 17 tion with respect to such amendments, a tax-  
 18 payer aggregated separate operating mineral in-  
 19 terests in applicable nonfuel minerals (as de-  
 20 fined in section 613(f)(2) of the Internal Rev-  
 21 enue Code of 1986) and in minerals other than  
 22 such applicable nonfuel minerals, the amend-  
 23 ments made by this section shall not apply to  
 24 such property, except that the allowance for de-  
 25 pletion under section 613 of such Code for tax-

able years beginning after the date of the enactment of this Act, with respect to such property shall be equal to the amount which bears the same ratio to such allowance computed without regard to this paragraph as the—

(i) number of acres in such property with respect to interests in minerals other than applicable nonfuel minerals (as so defined), bears to

(ii) total number of acres in such property.

(B) ELECTION TO TERMINATE AGGREGATION.—Subparagraph (A) shall not apply if a taxpayer elects, at such time and in such manner as the Secretary of the Treasury may prescribe, to terminate the election under section 614(c) of such Code with respect to the property described in subparagraph (A) for all taxable years beginning after the date of the enactment of this Act. In making such election, the taxpayer may elect to aggregate interests in applicable nonfuel minerals and other minerals separately.

(3) CERTAIN PURCHASES FOR FAIR MARKET VALUE.—The amendments made by this section

1 shall not apply with respect to any mineral interests  
 2 in applicable nonfuel minerals (as defined in section  
 3 613(f)(2) of such Code) acquired by the taxpayer in  
 4 a sale or exchange for fair market value on or before  
 5 the first day on which the Committee on Ways and  
 6 Means of the House of Representatives or the Com-  
 7 mittee on Finance of the Senate takes action with  
 8 respect to such amendments. The preceding sentence  
 9 shall not apply if the taxpayer acquired such inter-  
 10 ests after November 10, 1999, and before such first  
 11 date from a person who is a related person (within  
 12 the meaning of section 267 or 707 of such Code).

13 **SEC. 173. REPEAL OF FOREIGN EARNED INCOME EXCLU-**  
 14 **SION.**

15 Paragraph (1) of section 911(a) of the Internal Rev-  
 16 enue Code of 1986 (relating to exclusion from gross in-  
 17 come) is amended by inserting “in the case of taxable  
 18 years beginning before January 1, 2000,” before “the for-  
 19 eign earned income”.

20 **SEC. 174. DEPRECIATION ADJUSTMENTS FOR TOBACCO**  
 21 **MANUFACTURING EQUIPMENT.**

22 (a) IN GENERAL.—Section 168(b)(3) of the Internal  
 23 Revenue Code of 1986 (relating to property to which  
 24 straight line method applies) is amended by adding at the  
 25 end the following new subparagraph:

1 “(G) Tobacco manufacturing equip-  
2 ment described in subsection (e)(6).”

3 (b) DEFINITION OF TOBACCO MANUFACTURING  
4 EQUIPMENT.—Section 168(e) of the Internal Revenue  
5 Code of 1986 (relating to classification of property) is  
6 amended by adding at the end the following new para-  
7 graph:

8 “(6) TOBACCO MANUFACTURING EQUIPMENT.—  
9 The term ‘tobacco manufacturing equipment’ means  
10 property which is used exclusively in the manufac-  
11 turing or production of tobacco products, other than  
12 property which is used in connection with a farming  
13 business (as defined in section 263A(e)(4)).”

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to property placed in service after  
16 the date of the enactment of this Act.

17 **SEC. 175. FOREIGN OIL AND GAS INCOME.**

18 (a) SPECIAL RULES FOR FOREIGN TAX CREDIT  
19 WITH RESPECT TO FOREIGN OIL AND GAS INCOME.—

20 (1) CERTAIN TAXES NOT CREDITABLE.—

21 (A) IN GENERAL.—Subsection (a) of sec-  
22 tion 907 of the Internal Revenue Code of 1986  
23 (relating to reduction in amount allowed as for-  
24 eign tax under section 901) is amended to read  
25 as follows:



1       “(a) CERTAIN TAXES NOT CREDITABLE.—

2               “(1) IN GENERAL.—For purposes of this sub-  
3       title, the term ‘income, war profits, and excess prof-  
4       its taxes’ shall not include—

5               “(A) any taxes which are paid or accrued  
6       to any foreign country with respect to foreign  
7       oil and gas income and which are not imposed  
8       under a generally applicable income tax law of  
9       such country, and

10              “(B) any taxes (not described in subpara-  
11       graph (A)) which are paid or accrued to any  
12       foreign country with respect to foreign oil and  
13       gas income to the extent that the foreign law  
14       imposing such amount of tax is structured, or  
15       in fact operates, so that the amount of tax im-  
16       posed with respect to foreign oil and gas income  
17       will generally be materially greater, over a rea-  
18       sonable period of time, than the amount gen-  
19       erally imposed on income that is not foreign oil  
20       and gas income.

21       In computing the amount not treated as tax under  
22       subparagraph (B), such amount shall be treated as  
23       a deduction under the foreign law.

24              “(2) FOREIGN OIL AND GAS INCOME.—For pur-  
25       poses of this paragraph, the term ‘foreign oil and

gas income’ means the amount of foreign oil and gas extraction income and foreign oil related income.

“(3) GENERALLY APPLICABLE INCOME TAX LAW.—For purposes of this paragraph, the term ‘generally applicable income tax law’ means any law of a foreign country imposing an income tax if such tax generally applies to all income from sources within such foreign country—

“(A) without regard to the residence or nationality of the person earning such income, and

“(B) in the case of any income earned by a corporation, partnership, or other entity, without regard to—

“(i) where such corporation, partnership, or other entity is organized, and

“(ii) the residence or nationality of the persons owning interests in such corporation, partnership, or entity.”

(B) CONFORMING AMENDMENT.—Section 907 of such Code is amended by striking subsections (b), (c)(3), (c)(4), (c)(5), and (f).

(2) SEPARATE BASKETS FOR FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) of such Code (relating to separate application of section with respect to certain categories of income) is amended by striking “and” at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (K) and by inserting after subparagraph (H) the following new subparagraphs:

“(I) foreign oil and gas extraction income,  
“(J) foreign oil related income, and”.

(B) DEFINITIONS.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (H) and (I) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (G) the following new subparagraphs:

“(H) FOREIGN OIL AND GAS EXTRACTION INCOME.—The term ‘foreign oil and gas extraction income’ has the meaning given such term by section 907(c)(1). Such term shall not include any dividend from a noncontrolled section 902 corporation.

“(I) FOREIGN OIL RELATED INCOME.—The term ‘foreign oil related income’ has the meaning given such term by section 907(c)(2).

1           Such term shall not include any dividend from  
 2           a noncontrolled section 902 corporation and any  
 3           shipping income.”

4           (C) CONFORMING AMENDMENT.—Clause  
 5           (i) of section 904(d)(3)(F) of such Code is  
 6           amended by striking “or (E)” and inserting  
 7           “(E), (I), or (J)”.

8           (3) EFFECTIVE DATE.—

9           (A) IN GENERAL.—Except as otherwise  
 10          provided in this paragraph, the amendments  
 11          made by this subsection shall apply to taxable  
 12          years beginning after December 31, 1999.

13          (B) DISALLOWANCE RULE.—

14               (i) Section 907(a) of such Code (as  
 15               amended by paragraph (1)) shall apply to  
 16               taxes paid or accrued after December 31,  
 17               1999, in taxable years ending after such  
 18               date.

19               (ii) In determining the amount of  
 20               taxes deemed to be paid in a taxable year  
 21               beginning after December 31, 1999, under  
 22               section 902 or 960 of such Code, section  
 23               907(a) of such Code (as amended by para-  
 24               graph (1)) shall apply to all taxes whether

1           paid or accrued before, on, or after Decem-  
2           ber 31, 1999.

3           (C) LOSS RULE.—Notwithstanding the  
4           amendments made by paragraph (1)(B), section  
5           907(c)(4) of such Code shall continue to apply  
6           with respect to foreign oil and gas extraction  
7           losses for taxable years beginning before Janu-  
8           ary 1, 2000.

9           (D) TRANSITIONAL RULES.—

10           (i) Any taxes paid or accrued in a tax-  
11           able year beginning before January 1,  
12           2000, with respect to income which was  
13           described in subparagraph (I) of section  
14           904(d)(1) of such Code (as in effect on the  
15           day before the date of the enactment of  
16           this Act) shall be treated as taxes paid or  
17           accrued with respect to foreign oil and gas  
18           extraction income or foreign oil related in-  
19           come (as the case may be) to the extent  
20           such taxes were paid or accrued with re-  
21           spect to such type of income.

22           (ii) Any unused oil and gas extraction  
23           taxes which under section 907(f) of such  
24           Code (as so in effect) would have been al-  
25           lowed as a carryover to the taxpayer's first

taxable year beginning after December 31,  
 1998 (determined without regard to the  
 limitation of paragraph (2) of such section  
 907(f) for such first taxable year), shall be  
 allowed as carryovers under section 904(c)  
 of such Code in the same manner as if  
 they were unused taxes under section  
 904(c) with respect to foreign oil and gas  
 extraction income.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL  
 AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section  
 954(g) of the Internal Revenue Code of 1986 (defin-  
 ing foreign base company oil related income) is  
 amended to read as follows:

“(1) IN GENERAL.—Except as otherwise pro-  
 vided in this subsection, the term ‘foreign oil and  
 gas income’ means any income of a kind which  
 would be taken into account in determining the  
 amount of—

“(A) foreign oil and gas extraction income  
 (as defined in section 907(c)(1)), or

“(B) foreign oil related income (as defined  
 in section 907(c)(2)).”

(2) CONFORMING AMENDMENTS.—

(A)(i) Subsections (a)(5), (b)(5), and (b)(8) of section 954 of such Code are each amended by striking “base company oil related income” each place it appears (including in the heading of subsection (b)(8)) and inserting “oil and gas income”.

(ii) Subsection (b)(4) of section 954 of such Code is amended by striking “base company oil-related income” and inserting “oil and gas income”.

(B) The subsection heading for subsection (g) of section 954 of such Code is amended by striking “FOREIGN BASE COMPANY OIL RELATED INCOME” and inserting “FOREIGN OIL AND GAS INCOME”.

(C) Subparagraph (A) of section 954(g)(2) of such Code is amended by striking “foreign base company oil related income” and inserting “foreign oil and gas income”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after December 31, 1999, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

1 **SEC. 176. TRANSFER PRICING.**

2 (a) AUTHORITY OF SECRETARY WHEN LEGAL LIM-  
 3 ITS ON TRANSFER BY TAXPAYER.—Section 482 of the In-  
 4 ternal Revenue Code of 1986 (relating to allocation of in-  
 5 come and deductions among taxpayers) is amended by  
 6 adding at the end the following: “The authority of the Sec-  
 7 retary under this section shall not be limited by any re-  
 8 striction (by any law or agreement) on the ability of such  
 9 interests, organizations, trades, or businesses to transfer  
 10 or receive money or other property.”

11 (b) EFFECTIVE DATE.—The amendment made by  
 12 this section shall apply to taxable years beginning after  
 13 December 31, 1999.

14 **TITLE II—MISCELLANEOUS**  
 15 **PROVISIONS**

16 **SEC. 201. PROHIBITION ON FUNDING TELEVISION MARTI**  
 17 **AND RADIO MARTI.**

18 No Federal funds may be made available to carry out  
 19 any provision of the Television Broadcasting to Cuba Act  
 20 (22 U.S.C. 14655aa et seq.) or the Radio Broadcasting  
 21 to Cuba Act (22 U.S.C. 1465 et seq.).

22 **SEC. 202. PROHIBITION OF USE OF FEDERAL FUNDS FOR**  
 23 **LOBBYING.**

24 No funds made available for the National Low-Level  
 25 Radioactive Waste Management Program of the Depart-  
 26 ment of Energy may be used to pay the costs of lobbying



1 any Federal, State, or local government officer or em-  
 2 ployee on the question of the establishment of a low-level  
 3 radioactive waste storage site at any location.

4 **SEC. 203. PROHIBITION OF FUNDING OF THE NUCLEAR EN-**  
 5 **ERGY RESEARCH INITIATIVE.**

6 No funds appropriated to the Department of Energy  
 7 may be used to carry out the Nuclear Energy Research  
 8 Initiative.

9 **SEC. 204. REDUCTION IN GOVERNMENT AGENCY SPENDING**  
 10 **ON TRAVEL, PRINTING, SUPPLIES AND**  
 11 **OTHER ITEMS.**

12 Notwithstanding any other provision of law, the total  
 13 amount of budget authority available for a fiscal year to  
 14 all Federal agencies for—

15 (1) travel and transportation of persons (object  
 16 class 21.0);

17 (2) transportation of things (object class 22.0);

18 (3) printing and reproduction (object class  
 19 24.0);

20 (4) advisory and assistance services (object  
 21 class 25.1); and

22 (5) supplies and materials (object class 26.0);

23 shall be limited to the actual expenditures for those object  
 24 classes in fiscal year 1998.

1 **SEC. 205. REDUCING STUDENT LOAN DEFAULTS.**

2 (a) IN GENERAL.—Section 453(j) of the Social Secu-  
 3 rity Act (42 U.S.C. 653(j)) is amended by adding at the  
 4 end the following:

5 “(6) INFORMATION COMPARISONS AND DISCLO-  
 6 SURE FOR ENFORCEMENT OF OBLIGATIONS ON  
 7 HIGHER EDUCATION ACT LOANS AND GRANTS.—

8 “(A) FURNISHING OF INFORMATION BY  
 9 THE SECRETARY OF EDUCATION.—The Sec-  
 10 retary of Education shall furnish to the Sec-  
 11 retary, on a quarterly basis or at such less fre-  
 12 quent intervals as may be determined by the  
 13 Secretary of Education, information in the cus-  
 14 tody of the Secretary of Education for compari-  
 15 son with information in the National Directory  
 16 of New Hires, in order to obtain the informa-  
 17 tion in such directory with respect to individ-  
 18 uals who—

19 “(i) are borrowers of loans made  
 20 under title IV of the Higher Education Act  
 21 of 1965 that are in default; or

22 “(ii) owe an obligation to refund an  
 23 overpayment of a grant awarded under  
 24 such title.

25 “(B) REQUIREMENT TO SEEK MINIMUM  
 26 INFORMATION NECESSARY.—The Secretary of

1 Education shall seek information pursuant to  
 2 this section only to the extent essential to im-  
 3 proving collection of the debt described in sub-  
 4 paragraph (A).

5 “(C) DUTIES OF THE SECRETARY.—

6 “(i) INFORMATION COMPARISON; DIS-  
 7 CLOSURE TO THE SECRETARY OF EDU-  
 8 CATION.—The Secretary, in cooperation  
 9 with the Secretary of Education, shall  
 10 compare information in the National Di-  
 11 rectory of New Hires with information in  
 12 the custody of the Secretary of Education,  
 13 and disclose information in that Directory  
 14 to the Secretary of Education, in accord-  
 15 ance with this paragraph, for the purposes  
 16 specified in this paragraph.

17 “(ii) CONDITION ON DISCLOSURE.—

18 The Secretary shall make disclosures in ac-  
 19 cordance with clause (i) only to the extent  
 20 that the Secretary determines that such  
 21 disclosures do not interfere with the effec-  
 22 tive operation of the program under this  
 23 part. Support collection under section  
 24 466(b) shall be given priority over collec-

tion of any defaulted student loan or grant  
overpayment against the same income.

“(D) USE OF INFORMATION BY THE SECRETARY OF EDUCATION.—The Secretary of Education may use information resulting from a data match pursuant to this paragraph only—

“(i) for the purpose of collection of the debt described in subparagraph (A) owed by an individual whose annualized wage level (determined by taking into consideration information from the National Directory of New Hires) exceeds \$16,000; and

“(ii) after removal of personal identifiers, to conduct analyses of student loan defaults.

“(E) DISCLOSURE OF INFORMATION BY THE SECRETARY OF EDUCATION.—

“(i) DISCLOSURES PERMITTED.—The Secretary of Education may disclose information resulting from a data match pursuant to this paragraph only to—

“(I) a guaranty agency holding a loan made under part B of title IV of

1 the Higher Education Act of 1965 on  
 2 which the individual is obligated;

3 “(II) a contractor or agent of the  
 4 guaranty agency described in sub-  
 5 clause (I);

6 “(III) a contractor or agent of  
 7 the Secretary; and

8 “(IV) the Attorney General.

9 “(ii) PURPOSE OF DISCLOSURE.—The  
 10 Secretary of Education may make a disclo-  
 11 sure under clause (i) only for the purpose  
 12 of collection of the debts owed on defaulted  
 13 student loans, or overpayments of grants,  
 14 made under title IV of the Higher Edu-  
 15 cation Act of 1965.

16 “(iii) RESTRICTION ON REDISCLO-  
 17 SURE.—An entity to which information is  
 18 disclosed under clause (i) may use or dis-  
 19 close such information only as needed for  
 20 the purpose of collecting on defaulted stu-  
 21 dent loans, or overpayments of grants,  
 22 made under title IV of the Higher Edu-  
 23 cation Act of 1965.

24 “(F) REIMBURSEMENT OF HHS COSTS.—  
 25 The Secretary of Education shall reimburse the

1           Secretary, in accordance with subsection (k)(3),  
2           for the additional costs incurred by the Sec-  
3           retary in furnishing the information requested  
4           under this subparagraph.”.

5           (b) PENALTIES FOR MISUSE OF INFORMATION.—  
6   Section 402(a) of the Child Support Performance and In-  
7   centive Act of 1998 (112 Stat. 669) is amended in the  
8   matter added by paragraph (2) by inserting “or any other  
9   person” after “officer or employee of the United States”.  
10          (c) EFFECTIVE DATE.—The amendments made by  
11   this section shall become effective October 1, 1999.

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